
STATUTORY INSTRUMENTS

1995 No. 542

**The Legal Aid in Criminal and Care Proceedings
(General) (Amendment) Regulations 1995**

Citation and commencement

1. These Regulations may be cited as the Legal Aid in Criminal and Care Proceedings (General) (Amendment) Regulations 1995 and shall come into force on 1st May 1995.

Interpretation

2. In these Regulations a reference to any regulation or Schedule by number alone means the regulation or Schedule so numbered in the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989(1), and a reference to any form by number alone means the form so numbered in Schedule 2.

Transitional provisions

3. Regulations 6 to 11 of these Regulations shall apply in relation to all legal aid applications made on or after 1st May 1995, and the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989 shall apply in relation to all legal aid applications made before that date as if regulations 6 to 11 of these Regulations had not come into force.

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

4. In regulation 3(1) the following definition shall be inserted after the definition of “income support”:

““interests of justice criteria” means factors which the competent authority is required to take into account by section 22(2) of the Act;”.

5. Regulation 4 shall stand as regulation 4(1), and the following shall be inserted immediately after it:

“(2) Each magistrates' court shall make copies of Forms 1 and 5 available free of charge to persons (whether solicitors, prospective applicants or appropriate contributors) intending to use them for the purpose of making legal aid applications to that court or of notifying the court or the proper officer of a change in financial circumstances.”.

6. The following shall be substituted for regulation 8:

“8.—(1) The proper officer of each court shall keep a record of every application to that court for a legal aid order.

(2) That record shall state whether the application

(a) was granted;

(b) was refused on the ground that it did not appear that it was desirable to make an order in the interests of justice, or

(c) was refused on the ground that it did not appear that the applicant's disposable income and disposable capital were such that, in accordance with regulation 26(1), he was eligible for legal aid,

and, in the circumstances referred to in sub-paragraphs (a) and (b), shall state the factors relied upon by the applicant and the reasons for the decision.

(3) Where a legal aid order was granted or refused by an area committee following an application for review under regulation 15, the proper officer shall keep a record of the decision and reasons of the area committee as notified pursuant to regulation 17(4)(b).

(4) In the case of proceedings to which section 22 of the Act applies, the statement of reasons required by paragraph (2) shall include specific reference to such of the interests of justice criteria as appear to be relevant to the decision.

(5) The proper officer shall send to the Lord Chancellor such information from the records required to be kept by this regulation as the Lord Chancellor shall request.”

7. The following shall be substituted for regulation 12(2):—

“(2) Copies of the following documents shall be sent to the applicant and to his solicitor, if any:—

(a) Form 2;

(b) if the application was refused on the ground specified in paragraph (1)(a), the record required to be kept by regulation 8(1);

(c) where an application for review under regulation 15 may be made, the completed Form 1.”

8. The following paragraph shall be inserted after regulation 17(4):—

“(5) In the case of proceedings to which section 22 of the Act applies, the statement of reasons required by paragraph (4) shall comply with regulation 8(4).”

9. The following shall be substituted for regulation 19(2):—

“(2) Copies of the following documents shall be sent to the applicant and to his solicitor, if any:—

(a) Form 2;

(b) if the application was refused on the ground specified in paragraph (1)(a), the record required to be kept by regulation 8(1).”

10. Regulation 23(4) shall be amended as follows:—

(a) the word “or” at the end of sub-paragraph (a) shall be omitted;

(b) after sub-paragraph (b) there shall be inserted the following:—

“, or

(c) it appears to the court or the proper officer that the circumstance specified in regulation 26(3) obtains.”

11. The forms contained in the Schedule to these Regulations shall be substituted for the correspondingly numbered forms in Schedule 2.

Dated 2nd March 1995

Mackay of Clashfern, C.