
STATUTORY INSTRUMENTS

1995 No. 542

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

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

<i>Made</i>	- - - -	<i>2nd March 1995</i>
<i>Laid before Parliament</i>		<i>6th March 1995</i>
<i>Coming into force</i>	- -	<i>1st May 1995</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 34 and 43 of the Legal Aid Act 1988(1), and having consulted the Crown Court Rule Committee and the Magistrates' Courts Rule Committee, 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 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(2), 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.

(1) 1988 c. 34; section 34 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraphs 61 and 63. Section 43 is an interpretation provision and is cited because of the meaning assigned to the word "regulations".
(2) S.I.1989/344; the relevant amending instruments are S.I. 1992/720, 1993/1895 and 1994/807.

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.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 11

Application for Legal Aid in Criminal Proceedings Magistrates' or Crown Court

Form 1 Regulations 11 & 18 (also known as Crown Court Form 5131)

I apply for Legal Aid -

For the purpose of proceedings before the

Crown / Magistrates' / Youth Court*

1. Personal Details:

(Please use BLOCK letters and BLACK ink)

a) Surname e) Date of birth b) Forenames c) Permanent address d) Present address (If different from above)

2. Case Details:

a) Describe briefly what it is you are accused of doing, eg. "stealing £50 from my employer", "kicking a door causing £50 damage". b) The following other person(s) is / are charged in this case. c) Give reasons why you and the other persons charged in this case, if any, should not be represented by the same solicitor.

3. Court Proceedings:

(Complete section a or b whichever applies)

a) I am due to appear before the Magistrates' / Youth Court* on 19 at am/pm OR b) I appeared before the Magistrates' / Youth Court* on 19 at am/pm

and [] my case has been transferred to the Crown Court for trial (tick whichever applies) [] I was convicted and committed for sentence to the Crown Court [] I was convicted and / or sentenced and I wish to appeal against the conviction and/or sentence*

* Cross out whichever does not apply

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4. Outstanding Matters:

- a) If there are any other outstanding criminal charges or cases against you, give details including the court where you are due to appear (only those cases that are not yet concluded)

5. Your Financial Position: *(Tick the box which applies)*

- a) I receive Income Support, Family Credit or Disability Working Allowance, and I authorise the court to make such enquiries of the Benefits Agency as it considers necessary. I consent to the disclosure of information to confirm that I am in receipt of benefit
(You may also tick this box if your spouse or partner receives any of these benefits and you are living together)

Give:

- i) the address of the Social Security office dealing with the benefit

- ii) National Insurance number of person receiving benefit

- iii) Type of benefit

You should produce documentary evidence that you are receiving the benefit (eg order book). If you cannot produce evidence you should give your reasons below

- b) I have already given a statement of my means to the Court and there has been no change in my financial position. *(A new statement is required if there has been any change)*
- c) I attach a statement of my means in these proceedings *(details of your income and expenditure)*
- d) I am under 16 and I attach a statement of my parents' means. If you are unable to provide a statement of their means, give their name and address

6. Legal Representation:

Note

- a) If you do not give the name and address of a solicitor the court will select a solicitor for you.
 - b) You must tell the solicitor that you have named him, unless he has helped you complete this form.
 - c) If you have been charged together with another person or persons, the court may assign a solicitor other than the solicitor of your choice.

- a) The solicitor I wish to act for me is

- b) Give the firm's name and address (if known)

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7. Reasons for wanting Legal Aid:

- To avoid the possibility of your application being delayed or legal aid being refused because the court does not have enough information about the case, you must complete the rest of this form.
- When deciding whether to grant legal aid, the court will need to know the reasons why it is in the interests of justice for you to be represented.
- If you need help in completing this form, and especially if you have previous convictions, you should see a solicitor. He may be able to advise you free of charge or at a reduced fee.

Note: If you plead **NOT GUILTY** neither the information in this form nor that in your statement of means will be made available to the members of the court trying your case unless you are convicted or you consent. If you are acquitted, only the financial information you have given in your statement of means will be given to the court.

Tick any boxes which apply and give brief details or reasons in the space provided

	Details	Reasons for grant or refusal <i>(for court use only)</i>
a) It is likely that I will lose my liberty <i>(You should consider seeing a solicitor before answering this question)</i> <input type="checkbox"/>		
b) I am subject to a : suspended or partly suspended prison sentence <input type="checkbox"/> conditional discharge <input type="checkbox"/> probation order <input type="checkbox"/> supervision order <input type="checkbox"/> deferment of sentence <input type="checkbox"/> community service order <input type="checkbox"/> care order <input type="checkbox"/> combination order <input type="checkbox"/> <i>Give details as far as you are able, including the nature of the offence and when the order was made</i>		
c) It is likely that I will lose my livelihood <input type="checkbox"/>		
d) It is likely that I will suffer serious damage to my reputation <input type="checkbox"/>		
e) A substantial question of law is involved <input type="checkbox"/> <i>(You will need the help of a solicitor to answer this question)</i>		

(Please give authorities to be quoted with law reports references)

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	Details	Reasons for grant or refusal (for court use only)
f) I shall be unable to understand the court proceedings or state my own case because: i) My understanding of English is inadequate <input type="checkbox"/> ii) I suffer from a disability (Give full details) <input type="checkbox"/>		
g) Witnesses have to be traced and/or interviewed on my behalf (State circumstances) <input type="checkbox"/>		
h) The case involves expert cross examination of a prosecution witness (Give brief details) <input type="checkbox"/>		
i) It is in someone else's interests that I am represented <input type="checkbox"/>		
j) Any other reasons: (give full particulars) <input type="checkbox"/>		

8. Declaration:

If you knowingly make a statement which is false, or knowingly withhold information, you may be prosecuted. If convicted, you may be sent to prison for up to three months or be fined or both (section 39 (1) Legal Aid Act 1988). After your application has been considered by the court, you may be asked to give further information or to clarify information or to provide further proof of the information you have given. If you stop receiving Income Support, Family Credit, Disability Working Allowance or if your financial position changes in any way after you have submitted this form, you must tell the court. This is a requirement of the Legal Aid regulations.

I understand that the court may order me to make a contribution to the costs of Legal Aid, or to pay the whole costs if it considers that I can afford to do so and, if I am under 16, may make a similar order with respect to my parents.

Signed

Dated:

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For Court use only

Any additional factors considered when determining the application, including any information given orally.

Decision on the interests of justice test

I have considered all available details of all the charges and it is / is not * in the interests of justice that representation be granted because:

Signed Proper Officer

Date

* Cross out whichever does not apply

Notification of Refusal to grant Legal Aid and determination of Contribution

Form 2
Regs. 12, 13, 19 and 20

To

Your application for legal aid has been refused by the court/a judge of the court/a justice of the peace/a proper officer of the court on the following grounds:

- * (a) it does not appear desirable to make an order in the interests of justice. A statement of reasons for this decision is enclosed; and/or
- * (b) it does not appear that your means are such that you require assistance in meeting the costs you may incur.

If legal aid had been granted you would have been ordered to pay a contribution of £ per week from income and £ from capital [payable on] towards the costs of your case/legal aid would have been conditional on immediate payment of £

You are entitled:

- * (i) to apply for legal aid to an area committee (in some cases where your application has been refused under paragraph (a) above). If you wish to do this you should complete Form 3 overleaf. You must apply within 14 days of the date of this notification.
- (ii) to renew your application to the court [to the Crown Court] at any time. If you wish to do so you should complete the bottom section of this form and return the whole form to the Court at the address stated.
- (iii) in any event to apply for legal aid to the court of trial on the day of the trial.

* Delete as necessary

Signed:

Justices' Clerk/An officer of the Crown Court

Date:

I wish to renew by application for legal aid to the court.

I have/have not* made an application to an area committee.

Signed:

Date:

- NOTE:
- (i) You should enclose any additional or new information you think is relevant to your application.
 - (ii) If there has been any change in your financial circumstances you must complete and enclose a new statement of means form.
 - (iii) If you have made an application to an area committee you should enclose a copy of the notification of decision.

* Delete as appropriate

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Form 3.

Court Code
Offence Code
Solicitor's acc. no.

Application for Review of Refusal to grant Legal Aid

Reg. 16

To the Area Director, Area Committee for Area No.
(Address)

I wish to

apply for a review by the area committee of the refusal by the court on the19..... to grant me legal aid in connection with a charge of

My case is due to be heard on*

* (Delete if date has yet to be fixed)

I have/have not* renewed my application for legal aid to the court.

Signed:

Dated:

- NOTE:
- (i) This application must be made within 14 days of the date of the notice of refusal to make a legal aid order.
 - (ii) You should send the enclosed copy of your original application, and any additional or new information you think is relevant to your application.
 - (iii) A copy of this completed form and any other information you supply must be forwarded to the Clerk to the Justices of the court which refused legal aid.

**Notification of decision of the Area
Committee on Review of Refusal to grant Legal Aid**

Form 4.
Reg. 17

To:

Your application for legal aid has been granted/refused because it appears/does not appear desirable to make an Order in the interests of justice on any of the following grounds:-

- (1) You are likely to lose your liberty.
- (2) You are likely to lose your livelihood.
- (3) You are likely to suffer serious damage to your reputation.
- (4) A substantial question of law is involved.
- (5) You are unable to understand the proceedings or state your own case because:-
 - (a) Your knowledge of English is inadequate
 - (b) You suffer from a disability
- (6) Your case involves tracing and/or interviewing witnesses or expert cross-examination of a prosecution witness.
- (7) It is in someone else's interests that you are represented.
- (8) Any other reasons.

* Delete as appropriate.

The Committee reached this decision because:-

Date:

Secretary to the Area Committee

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Statement of Means by Applicant or Appropriate Contributor for Legal Aid purposes

Form 5
Regulation 23
(also known as
Crown Court Form 5132)

To apply for criminal legal aid you must complete this form. If you are not yet sixteen, then your mother or father may also be asked to complete one. If you have applied for legal aid for a child of yours who is aged sixteen or over **you** do not need to fill in this form. **Your child** should complete it, giving details of his or her **own income**.

To avoid delay in your application being considered please complete the form as fully and carefully as possible and provide the information and documentary evidence the form requires. If you cannot provide the documentary evidence you must explain why at Section 5.

1 Personal Details (please use BLOCK letters)

1. Surname Mr Mrs Miss Ms

2. Forenames

3. Date of birth

4. Home address

5. Marital status (please tick one box)
 Single Single and living together Widow(er)
 Married Married but separated Divorced

6. Are you claiming legal aid for a dependent child who is not yet sixteen? YES
 If YES, give the following details about the child

Surname NO (go to section 2)

Forenames

Date of birth

Home address (if different from yours)

Your relationship to the child (eg. father)

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2 Financial details - Part A : Income

In this section you are asked to give details of the money you receive. If you are living with your spouse or partner then you must provide details of the income of your spouse or partner as well. The details will be used to work out whether you have to pay a contribution towards legal aid and if so how much. The assessment is based on weekly income so your answers must show the amount you get **each week**. If any of the sections do not apply, write NONE in the space.

Work	Employer's name and address	Amount received		Official use
		Your income	Income of Spouse or Partner	
Enter gross earnings per week (before tax and insurance), including overtime, commission or bonuses. You must attach documentary evidence of the pay you have received over the past 13 weeks. Three monthly or 13 weekly wage slips would be the best evidence.		£ <input type="text"/>	£ <input type="text"/>	
If you are self-employed write SELF EMPLOYED. Show your gross earnings and attach the most recent accounts, showing gross income.		£ <input type="text"/>	£ <input type="text"/>	
Part time work Enter gross earnings per week (before tax and insurance) from any part time job not included above and attach documentary evidence.		£ <input type="text"/>	£ <input type="text"/>	
State Benefits Enter weekly amounts eg. from unemployment benefit, child benefit, etc. Say which benefit(s) you get in the space provided. You should produce evidence of the benefit payment (eg. order book).	Types of benefit <input type="text"/> ----- <input type="text"/> -----	£ <input type="text"/>	£ <input type="text"/>	
Money from property Enter weekly amounts (before any deductions) of money from sub-letting a house or rooms and attach documentary evidence.		£ <input type="text"/>	£ <input type="text"/>	
Any other income Please give details and weekly amounts and attach documentary evidence. <input type="text"/>		£ <input type="text"/>	£ <input type="text"/>	

Important: If the information you have given above is going to change soon, please give details of the changes in Section 5 of this form.

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2 Financial details - Part B : Capital and Savings

Please give details of all your capital and savings.
If you are living with your spouse or partner you must also give details of their capital and savings.

		Amount		Official use
		You	Spouse or Partner	
Property				
Do you own a house or property other than your main or only dwelling?		YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	
If YES, state the value (approximate selling price) and amount of any outstanding mortgage.		£ <input type="text"/>	£ <input type="text"/>	
		£ <input type="text"/>	£ <input type="text"/>	
Savings		£	£	
Give details of where your savings are, and the amounts. Include money in any bank, building society, National Savings Certificates, cash, stocks and shares or any other investments. You should produce pass books etc.				
Articles of value		£	£	
Give details of any articles of value that you own (eg. jewellery, furs, paintings) with their approximate value. You may be asked to produce valuation certificates.				

3 Allowances and Deductions

1. Enter Tax and National Insurance Contributions deducted from your earnings **per week**.

You		Spouse or Partner	
Tax	<input type="text"/>	Tax	<input type="text"/>
N.I.	<input type="text"/>	N.I.	<input type="text"/>

2. Enter the NUMBER of dependants **who are living with you**. If you are claiming legal aid for a child, please include that child. **N.B. Dependants are the people you and your spouse or partner look after financially.**

Spouse or Partner	<input type="text"/>	Children 18 and over	<input type="text"/>	Children 16 and 17	<input type="text"/>	Children 11 to 15	<input type="text"/>	Children under 11	<input type="text"/>
Others (please say who)	<input type="text"/>								

3. If you pay maintenance to any dependant who does **NOT** live with you, please give details of the amounts you, or your spouse or partner, pay.

Age(s) of dependant(s)	<input type="text"/>	Your relationship to the dependant	<input type="text"/>	Amount per week	<input type="text"/>
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You should supply copies of agreements or court orders.

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3 Allowances and Deductions (continued)

4. Give the amounts of Council Tax which you and your spouse or partner pay.

(a) The amount of Council Tax paid. You must provide evidence of this (eg. the demand from the local authority).

£	<input type="checkbox"/> a week
	<input type="checkbox"/> a month
	<input type="checkbox"/> a year

(b) Is Council Tax benefit received?

YES NO

(please say how much)

£	<input type="checkbox"/> a week
	<input type="checkbox"/> a month
	<input type="checkbox"/> a year

5. Give the following details of housing expenses of you and your spouse/partner. If you own more than one house only give details for the house in which you live. If you are paying the expenses of a dependant who is not living with you, enter the details in the spaces on the right. You should produce rent books, evidence of mortgage instalments, and evidence of water and sewerage charges. It is in your interests to provide evidence of any other expenses claimed and you may be required to provide this.

	£	/ week	Amount for dependant(s)	£	/ week
Rent	£	/ week		£	/ week
Mortgage payment	£	/ week		£	/ week
Ground rent	£	/ week		£	/ week
Service charge	£	/ week		£	/ week
Water and sewerage charges	£	/ week		£	/ week
Board and lodging	£	/ week		£	/ week
Bed and Breakfast	£	/ week		£	/ week

6. How much does it cost you and your spouse or partner **each week** to travel to and from work?

	You	Your spouse or partner
	£	£

7. Give details of any other expenses which you think the court should know about. You may include any payments on court orders, and contributions to approved pension schemes, **but not** money for food, clothing or heating. You should produce documentary evidence of the payments.

		£	£
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4 Further Information

This part of the form is for you to give any financial information that you think the court should have when deciding upon your application for legal aid. You may also use this part of the form to tell the court of any future changes in circumstances that might alter your position.

5 If you have not produced documentary evidence of all income/benefits that you receive and each allowance you have claimed, you must explain why you cannot do so.

6 Declaration

If you knowingly make a statement which is false, or knowingly withhold information, you may be prosecuted. If convicted, you may be sent to prison for up to three months, or be fined, or both (*section 39(1) Legal Aid Act 1988*).
After your application has been considered by the court, you may be asked to give further information or to clarify information or to provide further proof of the information that you have given.
If your financial position changes in any way after you have submitted this form, you must tell the court. This is a requirement of the Legal Aid Regulations.

I declare that to the best of my knowledge and belief, I have given a complete and correct statement of my income, savings and capital (and that of my spouse or partner)* (and that of my child).**
I authorise the court to make such enquiries of the Benefits Agency as it considers necessary and I consent to the disclosure of information to confirm that I am in receipt of benefit.

Signed

Date

* Delete if you are single or if you are not living with your spouse or partner
** Delete if legal aid is not sought for your child

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

- (1) requiring magistrates' courts to provide copies of legal aid application forms free of charge;
- (2) requiring the proper officer of each court to which applications for criminal legal aid are made to keep records of the applications, showing the court's reasons for holding that legal aid should or should not be granted in the interests of justice, referring where appropriate to the criteria listed in section 22 of the Legal Aid Act 1988;
- (3) requiring the proper officer to supply the applicant with a copy of that record where legal aid has been refused on the interests of justice ground;
- (4) exempting the applicant from the duty of providing a statement of means in a case where no means test applies because he, his parent or guardian or the spouse of one of these receives income support, family credit or disability working allowance.