

1999 No. 1113

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Civil Legal Aid (General) (Amendment) Regulations
1999**

<i>Made</i> - - - -	<i>31st March 1999</i>
<i>Laid before Parliament</i>	<i>12th April 1999</i>
<i>Coming into force</i>	<i>6th May 1999</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 34 and 43 of the Legal Aid Act 1988(a), having had regard to the matters specified in section 34(9) and having 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 Civil Legal Aid (General) (Amendment) Regulations 1999 and shall come into force on 6th May 1999.

Interpretation

2. In these Regulations, a regulation referred to by number alone means the regulation so numbered in the Civil Legal Aid (General) Regulations 1989(b).

Amendments to the Civil Legal Aid (General) Regulations 1989

3.—(1) The following shall be substituted for regulation 17 and shall stand as paragraph (1) of that regulation:

“If it appears to an Area Director that an application or certificate could be more conveniently or appropriately dealt with in another area office, he may transfer the application or certificate to that other office.”.

(2) The following paragraph shall be inserted after regulation 17(1):

“(2) Where a certificate is transferred under this regulation to another area office, the certificate shall, for all purposes, including any obligation by the assisted person to continue to pay a contribution, continue as if it were a certificate issued by that area office.”.

4. In regulation 70(1):—

(a) after “these Regulations” there shall be inserted “, whether in relation to the assisted person’s case or any other application, certificate or contract,” and

(a) 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 meanings assigned to the words “prescribed” and “regulations”.

(b) S.I. 1989/339; relevant amending instruments are noted below.

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

“(c) notify the Area Director of any information which comes to his knowledge and which he considers may be relevant to the determination of any application or the continuance of any certificate or contract.”.

5.—(1) At the end of regulation 73(1) there shall be inserted “, in relation to any application, certificate or contract.”.

(2) In regulation 73(2) the words “in relation to any application, certificate or contract,” shall be inserted before “any party”.

6.—(1) The following sub-paragraphs shall be inserted after regulation 107A(3)(b)(a):

“(c) be conducted in accordance with any conditions or limitations on the relevant certificate, whether as to the work authorised under the certificate, the maximum costs payable or otherwise;

(d) ensure that any limitation as to costs on the relevant certificate will not reduce any sums payable in respect of counsel’s fees except where counsel’s fees alone exceed such limitation, when paragraph (4) below will apply.”.

(2) The following paragraph shall be inserted after regulation 107A(3):

“(4) Where counsel’s fees alone exceed any limitation as to costs on the relevant certificate, the excess shall be borne by the assisted person’s solicitor except where he has sent counsel a copy of the certificate and any amendments in accordance with regulation 59(2)(a).”.

7. In regulation 107B(3)(a)(b) the following shall be inserted after “legal representatives”:

“, including, without limitation, with respect to the rates for the basis of taxation set out in regulation 107A or any limitation as to costs on the relevant certificate or contract;”.

Signed by authority of the Lord Chancellor

Dated 29th March 1999

We consent

Dated 31st March 1999

G.W. Hoon
Minister of State
Lord Chancellor’s Department

David Jamieson
Jim Dowd
Two of the Lords Commissioners
of Her Majesty’s Treasury

(a) Inserted by S.I. 1994/229.

(b) Inserted by S.I. 1994/229.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Civil Legal Aid (General) Regulations 1989 so as to:

- (a)** extend the circumstances in which a legal aid application or certificate may be transferred between area offices;
- (b)** extend the duty of an assisted person's solicitor in respect of the information to be provided to the Legal Aid Board's Area Director and the use to which such information may be put;
- (c)** restrict remuneration under certificates or contracts subject to costs limitations to the level of such limitation and make provision for any shortfall;
- (d)** clarify further the circumstances in which the indemnity principle is overridden where costs are awarded against a third party.

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