
STATUTORY INSTRUMENTS

1993 No. 565

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

The Civil Legal Aid (General) (Amendment) Regulations 1993

<i>Made</i>	- - - -	<i>9th March 1993</i>
<i>Laid before Parliament</i>		<i>10th March 1993</i>
<i>Coming into force</i>		
<i>Regulations 1,2,4,10 and the Schedule</i>		<i>1st April 1993</i>
<i>Remainder</i>		<i>12th April 1993</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 15(1), 16, 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.—(1) These Regulations may be cited as the Civil Legal Aid (General) (Amendment) Regulations 1993.

(2) Regulations 1, 2, 4 and 10 and the Schedule shall come into force on 1st April 1993 and all other regulations shall come into force on 12th April 1993.

Interpretation

2. In these Regulations—

- (a) a regulation referred to by number alone means a regulation so numbered in the Civil Legal Aid (General) Regulations 1989(2); and
- (b) “period of computation” has the meaning prescribed in the Civil Legal Aid (Assessment of Resources) Regulations 1989(3).

(1) 1988 c. 34; sections 15, 16, 34 and 43 were amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 17 paragraph 19 and 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.1989/339, as amended by S.I. 1991/524, 2036 and 2784 and S.I. 1992/590 and 721.

(3) S.I. 1989/338; there are no relevant amendments.

Transitional provisions: financial eligibility

3.—(1) Regulations 5 to 9 of these Regulations shall apply to applications for legal aid where the period of computation begins on or after 12th April 1993.

(2) Applications for legal aid where the period of computation begins before 12th April 1993 shall be treated as if regulations 5 to 9 of these Regulations had not come into force.

Transitional provisions: payment on account

4.—(1) Notwithstanding the provisions of regulation 10 of these Regulations, counsel may submit a claim for payment under regulation 100(2) (payment on account) in respect of a certificate issued during the months specified in column 1 of the Schedule which became eligible for payment on the relevant date specified in column 2 of that Schedule.

(2) Any claim under this regulation shall be made not later than the relevant date specified in column 3 of the Schedule.

(3) Wherever a particular day in the month is not specified in a column in the Schedule the relevant day of the month is the same as that on which the certificate was issued.

(4) The maximum payment to be made in respect of one financial year for any claim submitted pursuant to this regulation shall be 62%.

(5) References in this regulation to the Schedule mean the Schedule to these Regulations.

Financial eligibility

5. In regulation 3 the definition of “maximum contribution” shall be omitted.

6. In the definition of “assessment officer” in regulation 3 and in regulations 12(1)(b)(ii), 18(1) and 52(1) the word “maximum” shall be omitted in each of the places at which it occurs.

7. In regulation 31:—

- (a) the words in paragraph (1) from “and, in so doing” to the end shall be omitted;
- (b) paragraphs (2) and (3) shall be omitted.

8. In regulation 43, for paragraph (1)(b) there shall be substituted:—

“(b) the first contribution payable out of income to be paid forthwith, with further contributions payable at monthly intervals thereafter.”.

9. In regulation 52, for paragraphs (2) and (3) there shall be substituted:—

“(2) Where at any time during which a certificate is in force the Area Director is of opinion that the costs incurred or likely to be incurred under the certificate will not be more than the contribution which the assisted person has already paid he may waive (and, where necessary subsequently revive) the requirement for further payments on account of the assisted person’s contribution.

(3) Without prejudice to regulation 51, the Area Director shall amend the certificate from such date as he considers appropriate—

- (a) where he re-determines the amount payable on account of the assisted person’s contribution whether as a result of a re-assessment pursuant to paragraph (1) or otherwise; or
- (b) where he waives or revives (following a period of waiver) the requirement for further payments on account of the assisted person’s contribution under paragraph (2).”.

Payment on account

10. In regulation 100:—

(a) for paragraph (3) there shall be substituted the following paragraph:—

“(3) A payment may only be made under this regulation when—

(a) a period of 12 months has elapsed since the date on which the certificate was issued; or

(b) further periods of 12 months and 24 months have elapsed since that date.”;

(b) for paragraph (5) there shall be substituted the following paragraph:—

“(5) The maximum payment to be made for each claim under this regulation in any one financial year shall be:

for the financial year 1993/94	62%
for the financial year 1994/95	70%
for the financial year 1995/96 and thereafter	75%.”.

Dated 8th March 1993

Mackay of Clashfern, C.

We consent,

Dated 9th March 1993

Tim Wood
Tim Kirkhope
Two of the Lords Commissioners of Her
Majesty’s Treasury

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 4

<i>Column 1</i> <i>Month of issue of certificate</i>	<i>Column 2</i> <i>Date certificate eligible for payment</i>	<i>Column 3</i> <i>Last date eligible to claim payment</i>
June 1989	December 1992	April 1993
July 1989	January 1993	May 1993
August 1989	February 1993	31 May 1993
September 1989	March 1993	31 May 1993
October 1989	1 April 1993	31 May 1993
November 1989	1 April 1993	31 May 1993
December 1989	1 April 1993	31 May 1993
January 1990	1 April 1993	31 May 1993
February 1990	1 April 1993	31 May 1993
March 1990	1 April 1993	31 May 1993
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November 1991	1 April 1993	31 May 1993
December 1991	1 April 1993	31 May 1993
January 1992	1 April 1993	31 May 1993
February 1992	1 April 1993	31 May 1993

Note: Where a particular day in the month is not specified in the column the relevant day of the month is the same as that on which the certificate was issued.

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<i>Column 1</i> <i>Month of issue of certificate</i>	<i>Column 2</i> <i>Date certificate eligible for payment</i>	<i>Column 3</i> <i>Last date eligible to claim payment</i>
March 1992	1 April 1993	31 May 1993

Note: Where a particular day in the month is not specified in the column the relevant day of the month is the same as that on which the certificate was issued.

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations amend the provisions in the Civil Legal Aid (General) Regulations 1989 as follows.

(1) Changes relating to financial eligibility are contained in regulations 5 to 9. References to “maximum contribution” which currently limit the period of contribution to one year are deleted. An assisted person will be liable to pay monthly contributions from disposable income for as long as the legal aid certificate is in force. The Area Director may in certain circumstances waive (and subsequently revive) the requirement for further contributions where it appears that the contributions already paid will exceed the costs of representation. Transitional provisions are contained in regulation 3.

(2) Regulation 10 of these Regulations amends the payment on account scheme in regulation 100 of the Civil Legal Aid (General) Regulations 1989 as it relates to counsel’s fees. The periods at which payments on account may be made will be aligned with those applicable to solicitors, i.e. 12, 24 and 36 months after the date of issue of the legal aid certificate (replacing the present 18, 30 and 42 month intervals). The increase in the maximum proportion of the fees payable in a financial year to 70 per cent is delayed for one year: for 1993-94 the maximum proportion of the bill which can be paid on account will remain at 62 per cent. Transitional provisions are contained in regulation 4 and the Schedule.