
STATUTORY INSTRUMENTS

1988 No. 2302

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

**The Legal Aid in Criminal Proceedings
(Costs) (Amendment) Regulations 1988**

Made - - - - *21st December 1988*
Laid before Parliament *6th January 1989*
Coming into force - - *1st February 1989*

The Lord Chancellor, in exercise of the powers conferred by section 39 of the Legal Aid Act 1974(1), and now vested in him(2), and having had regard to the matters specified in section 39(3), hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Legal Aid in Criminal Proceedings (Costs) (Amendment) Regulations 1988 and shall come into force on 1st February 1989.

(2) In these Regulations, a regulation or Schedule referred to by number means the regulation or Schedule so numbered in the Legal Aid in Criminal Proceedings (Costs) Regulations 1988(3).

2. After regulation 9(6), there shall be inserted the following new paragraph—

“(7) Where prior authority has been obtained to instruct a Queen’s Counsel alone under regulation 14D(1)(cc) of the 1968 Regulations(4), no question as to the propriety of that act shall be raised on any determination of counsel’s fees, unless the solicitor knew or ought reasonably to have known that the purpose for which the authority was given had failed or become irrelevant or unnecessary before the fees were incurred.”

3. Paragraph 1(2)(a)(i) of Schedule 1 Part II shall be amended by substituting, for the words “or at the time of listing”, the words “and at the time of listing”.

4. After paragraph 4(9) of Schedule 1 Part II, there shall be inserted the following new sub-paragraph—

“(9A) Where a solicitor prepares a case with a view to counsel appearing at the substantive hearing without the solicitor attending court, the standard preparation fee

(1) 1974 c. 4; section 39 was amended by the Legal Aid Act 1988 (c. 34), Schedule 8, paragraph 3.
(2) S.I. 1980/705.
(3) S.I. 1988/423.
(4) S.I. 1968/1231; the relevant amending instruments are S.I. 1983/1863 and 1988/2303.

payable (including any increase made in that fee by virtue of sub-paragraph (8)(a) or (9)) shall be further increased by £23·00 (or by £24·50 for a fee-earner whose office is situated within legal aid area 1, 13 or 14).”.

5. Paragraph 4(10) of Schedule 1 Part II shall be amended by substituting, for the words “sub-paragraph (8) or (9)”, the words “sub-paragraph (8), (9) or (9A)”.

6. Paragraph 7 of Schedule 1 Part II shall be amended by inserting, after the words “he may”, the words “, within 6 weeks of the decision being given,”.

7. Schedule 2 Part I shall be amended by inserting, after paragraph 8, the following new paragraph—

“8A. Where counsel appears at the substantive hearing of a case without his instructing solicitor attending court, the standard fee payable (including any increase made in that fee by virtue of paragraph 7(a) or 8) shall be further increased by £15·00.”.

Dated 21st December 1988

Mackay of Clashfern, C.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Legal Aid in Criminal Proceedings (Costs) Regulations 1988—

- (a) to effect an amendment which is consequential to the Legal Aid in Criminal Proceedings (General) (Amendment) (No.2) Regulations 1988 (S.I.1988/2303) (regulation 2);
- (b) to effect a minor drafting amendment (regulation 3);
- (c) by providing a system of standard fees for solicitors and counsel where counsel appear in the Crown Court without the instructing solicitor attending the hearing (regulations 4, 5 and 7);
- (d) by providing a time limit of 6 weeks within which a solicitor may seek to review a decision to allow a standard fee under paragraph 7 of Schedule 1 Part II (regulation 6).