1980 No. 402

LEGAL AID AND ADVICE

Legal Aid (Assessment of Resources) Regulations (Northern Ireland) 1980

Made . . . . . 6th November 1980

Coming into operation . . . 24th November 1980

To be laid before Parliament

The Secretary of State, in pursuance of sections 4 and 14 of the Legal Aid and Advice Act (Northern Ireland) 1965(**a**), and with the concurrence of the Treasury, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Legal Aid (Assessment of Resources) Regulations (Northern Ireland) 1980 and shall come into operation on 24th November 1980.

(2) In these regulations:—

"the Act" means the Legal Aid and Advice Act (Northern Ireland) 1965;

"assessment officer" means a person appointed by the Department of Health and Social Services to make a determination;

"certificate" means a legal aid certificate issued in accordance with regulations made under the Act;

"child" means a person who is for the time being either— (i) under the age that is the upper limit of compulsory school age by virtue of article 36 of the Education and Libraries (Northern Ireland) Order 1972(**b**), or (ii) over the limit of compulsory school age and either receiving full-time instruction at an educational establishment or undergoing training for a trade, profession or vocation;

"the committee" means the Legal Aid Committee or a Certifying Committee set up by a scheme made under section 10 of the Act or the secretary of such a committee acting on its behalf, which (i) requires the assessment officer to determine the disposable income and the disposable capital and the maximum contribution of the person concerned, or (ii) amends, revokes or discharges a certificate;

"income" includes benefits and privileges; the income of the person concerned includes any sum payable to that person for the purpose of the maintenance of a child including any sum so payable under the order of a court or under any instrument;

"make a determination" in relation to the assessment officer means to determine the disposable income and disposable capital of the person concerned and to determine the maximum amount of his contribution to the legal aid fund in respect of any proceedings;

(**a**) 1965 c. 8 (N.I.) as modified by S.I. 1973/2163 (1973 III, p. 7541) and amended by The Legal Aid, Advice and Assistance (Northern Ireland) Order 1979 S.I. 1979/1572 (N.I. 11) and by Article 15 and paragraph 5 of Schedule 3 to the Social Security (Northern Ireland) Order 1980 S.I. 1980/870 (N.I. 8)

(**b**) S.I. 1972/1263 (N.I. 12)

"the period of computation" means the period of 12 months next ensuing from the date of application for a certificate, or such other period of 12 months as in the particular circumstances of any case the assessment officer may consider to be appropriate;

"the person concerned" means the person whose disposable income and disposable capital are to be determined or re-determined or the person whose resources are to be treated as the resources of any other person, under these Regulations;

"secretary" means the secretary of the Legal Aid Committee or a Certifying Committee and includes any person authorised by the secretary to act on his behalf to the extent that such a person is so authorised.

Revocations

2. The regulations specified in Schedule 1 are hereby revoked.

Determination of disposable income and disposable capital and maximum contribution

3. Subject to the provisions of section 4 of the Act, the assessment officer shall make a determination and may call attention to any special circumstances affecting the manner in which any contribution under section 3 of the Act is to be made.

Determination of disposable income and disposable capital

4. Save as otherwise provided by these regulations, the disposable income and disposable capital of the person concerned shall respectively be determined in accordance with the provisions of Schedules 2 and 3 to these Regulations.

Subject matter of dispute

5.—(1) In computing the disposable income or the disposable capital of the person concerned there shall be excluded the value of the subject matter of the dispute in respect of which application has been made for a certificate.

(2) Periodical payments of maintenance made under an order of a court shall not be treated as the subject matter of the dispute for the purposes of paragraph (1).

Application in representative, fiduciary or official capacity

6. Where an application for a certificate is made by a person who is concerned in the proceedings only in a representative, fiduciary or official capacity, then for the purpose of determining the disposable income and the disposable capital of that person and the amount of any contribution to be made to the legal aid fund, the assessment officer shall:—

(*a*) subject to sub-paragraph (*b*), disregard the personal resources of that person; but

(*b*) if so requested by the committee, determine the value of any property, or estate or the amount of any fund out of which that person is entitled to be indemnified and the disposable income and disposable capital and maximum contribution of any persons (including that person if appropriate), who might benefit from the outcome of the proceedings.

Resources of a spouse

7.—(1) Except as otherwise provided in paragraph (2), in computing the disposable income and the disposable capital of the person concerned the resources of his or her spouse shall be treated as his or her resources.

(2) The resources of the spouse of the person concerned shall not be treated as his or her resources if:—

(i) the spouse has a contrary interest in the dispute in respect of which application for a certificate is made; or

(ii) the person concerned and the spouse are living separate and apart.

Resources of an applicant who is a child

8.—(1) Where an application for a certificate is made by or on behalf of a child who is under the upper limit of compulsory school age, there shall, in addition to the child's resources, be determined and taken into account the resources of:—

(i) any person liable to maintain the child under article 22 of the Supplementary Benefits (Northern Ireland) Order 1977(c); and

(ii) any person having care and control of the child, not being a person having such care and control by reason of any contract or for some temporary purpose, except where that person has a contrary interest in the dispute in respect of which the application is made, or in other exceptional circumstances.

(2) When an application for a certificate is made by or on behalf of a child, the resources of the child for the purposes of these Regulations shall include any sum payable under the order of a court or under any instrument to any person for the purpose of the maintenance of the child.

Deprivation or conversion of resources

9. If it appears to the assessment officer that the person concerned has with intent to reduce the amount of his disposable income and disposable capital:—

(i) directly or indirectly deprived himself of any resources, or

(ii) converted any part of his resources into resources which under these Regulations are to be wholly or partly disregarded (including for this purpose the repayment of money borrowed on the security of a dwelling), or in respect of which nothing is to be included in determining the resources of that person,

the resources of which he has so deprived himself or converted shall be treated as part of his resources or as not so converted as the case may be.

Notification of the assessment officer's decision

10. The assessment officer's determination of the disposable income, disposable capital and maximum contribution of the person concerned shall be communicated in writing to the committee.

Duty of the person concerned to report change in financial circumstances

11. The person concerned shall inform the committee of any change in the financial circumstances under which the original determination was made which he has reason to believe might affect the terms or continuation of his certificate.

Re-determination on change of circumstances

12. Where it appears to a committee that the circumstances upon which the assessment officer has determined the disposable income or disposable capital of the person concerned have altered so that:—

(*a*) his disposable income may have increased by an amount greater than £156 or decreased by an amount greater than £78; or

(*b*) his disposable capital may have increased by an amount greater than £120;

(c) S.I. 1977/2156 (N.I. 27) as amended by Articles 1, 2 and 7 and paragraph 16 of Schedule 2 to the Social Security (Northern Ireland) Order 1980 S.I. 1980/870 (N.I. 8)

the assessment officer shall, if so required by the committee, re-determine that person's disposable income, disposable capital and maximum contribution.

Determination of resources outside the original period of computation

13.—(1) Where a certificate is still in force after the expiration of the period of computation the committee may require the assessment officer to determine the current disposable income and disposable capital of the person concerned and shall discharge the certificate from such dates as it thinks fit where it considers that the current financial circumstances of the person concerned are such that he could afford to proceed without legal aid.

(2) Where the officer is required by the committee under paragraph (1) to determine the current disposable income and disposable capital of the person concerned after the original period of computation, he shall do so in accordance with the provision of Schedules 2 and 3 to these Regulations; and for this purpose:

(*a*) the period of computation shall be the period of twelve months following the date of the request by the committee, and

(*b*) the amount and value of every resource of a capital nature shall be ascertained as on the date of the request by the committee.

Amendment of determination because of error or mistake

14. Where it appears to the assessment officer that there has been some error or mistake in the determination of a person's disposable income, disposable capital or maximum contribution or in any computation or estimate upon which such determination is based and that it would be just and equitable to correct the error or mistake, the officer may, with the consent of the committee, make an amended determination, which shall for all purposes be substituted for the original determination and shall have effect in all respects as if it were the original determination.

Power of the assessment officer to estimate the resources of the person concerned

15.—(1) Where the committee informs the assessment officer that the person concerned requires a certificate in a matter of special urgency and the officer is not satisfied that he can make a determination and communicate it to the committee by the time that he is requested so to do, the officer may, on the basis of the information then available to him, make an estimate of the disposable income and disposable capital of the person concerned and of the maximum amount of his contribution.

(2) The officer shall communicate the estimate made under paragraph (1) to the committee in writing and, until the making of a determination, the estimate shall be treated as if it were a determination and sections 2 and 3 of the Act shall have effect as if the disposable income, disposable capital and maximum contribution of the person concerned were of the amounts specified in the estimate.

(3) In any case in which the officer makes an estimate under paragraph (1) he shall, upon receiving such additional information as he may require, make a determination and shall communicate it to the committee in writing and the determination shall for all purposes take the place of the estimate.

Humphrey Atkins
One of Her Majesty's Principal Secretaries of State

Northern Ireland Office
6th November 1980

Peter Morrison
J. A. Douglas-Hamilton
Two of the Lords Commissioners of Her Majesty's Treasury

We concur
10th November 1980

SCHEDULE 1 Regulation 2

Regulations Revoked

Title	*Reference*
Legal Aid (Assessment of Resources) Regulations (Northern Ireland) 1965	S.R. & O. (N.I.) 1965 No. 218
Legal Aid (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1966	S.R. & O. (N.I.) 1966 No. 271
Legal Aid (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1969	S.R. & O. (N.I.) 1969 No. 307
Legal Aid (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1970	S.R. & O. (N.I.) 1970 No. 246
Legal Aid (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1971	S.R. & O. (N.I.) 1971 No. 115
Legal Aid (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1972	S.R. & O. (N.I.) 1972 No. 337
Legal Aid (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1976	S.R. 1976 No. 125
Legal Aid (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1978	S.R. 1978 No. 191
Legal Aid (Assessment of Resources) (Amendment No. 2) Regulations (Northern Ireland) 1978	S.R. 1978 No. 367
Legal Aid (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1979	S.R. 1979 No. 189

SCHEDULE 2 Regulation 4

Rules for computing disposable income

1. The income of the person concerned from any source shall be taken to be in the income which that person may reasonably expect to receive (in cash or in kind) during the period of computation, that income in the absence of other means of ascertaining it being taken to be the income received during the preceding year..

2. The income in respect of any emolument, benefit or privilege receivable otherwise than in cash shall be estimated at such a sum as in all the circumstances is just and equitable.

3.—(1) The income from a trade, business or gainful occupation other than an employment at a wage or salary shall be deemed to be the profits therefrom which have accrued or will accrue to the person concerned in respect of the period of computation, and, in computing such profits, the assessment officer may have regard to the profits of the last accounting period of such trade, business or gainful occupation for which accounts have been made up.

(2) In ascertaining the profits for the purpose of the last foregoing paragraph there shall be deducted all sums necessarily expended to earn those profits, provided that no deduction shall be made in respect of the living expenses of that person or any member of his family or household, except in so far as such member of his family or household shall be wholly or mainly employed in such trade or business and such living expenses form part of his remuneration.

4.—(1) In computing the disposable income of the person concerned there shall be deducted the total amount of tax which it is estimated would be payable by the person concerned if his income, as computed in accordance with the foregoing rules of this Schedule (but without taking into account the operation of regulation 5 of these regulations), were his income for a fiscal year and his liability for tax in that year were to be ascertained by reference to that income and not by reference to his income in any other year or period.

(2) For the purposes of this rule the tax shall be estimated at the rate provided by and after making all appropriate allowances, deductions or reliefs in accordance with the provisions of the Income Tax Acts in force for the fiscal year current at the date of the application for a certificate.

5.—(1) Subject to the provisions of this rule, there shall be disregarded £4 a week of the income taken into account except so far as it consists of earnings.

(2) This rule does not apply to income so far as it consists of—

(*a*) allowances under the Child Benefit (Northern Ireland) Order 1975(**d**);

(*b*) any family income supplement under the Family Income Supplements Act (Northern Ireland 1971(**e**);

(*c*) any graduated retirement benefit under section 35 of the National Insurance Act (Northern Ireland) 1966(**f**): as modified by regulation 2 of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978(**g**);

(*d*) any payment for the maintenance of the person concerned being a payment made under the order of a court or a payment made by a person who for the purposes of the Supplementary Benefits (Northern Ireland) Order 1977(**h**) is liable to maintain the person concerned;

(*e*) benefit under the Supplementary Benefits (Northern Ireland) Order 1977.

(3) This rule does not apply to income so far as it consists of any benefit under Chapters I to III of Part II of the Social Security (Northern Ireland) Act 1975(**i**).

(4) This rule does not apply to income so far as it consists of injury benefit under Part II of the Social Security (Northern Ireland) Act 1975 as amended or of industrial death benefit under that Part of that Act except—

(**d**) S.I. 1975/1504 (N.I. 16)
(**e**) 1971 c. 8 (N.I.)
(**f**) 1966 c. 6 (N.I.)
(**g**) S.R. 1978 No. 105 (I, p. 301)
(**h**) S.I. 1977/2156 (N.I. 27)
(**i**) 1975 c. 15

(*a*) so much of—

(i) any widow's pension payable at the higher permanent rate under section 68 of that Act; or

(ii) any widower's pension under section 69 of that Act, as exceeds the sum specified in article 8(1)(*a*) of the Social Security Pensions (Northern Ireland) Order 1975(**j**);

(*b*) any parent's pension under section 71 of the Social Security (Northern Ireland) Act 1975;

(*c*) any relative's pension under section 72 of that Act.

(5) This rule does not apply to income so far as it consists of any pension or allowance for a widow or a woman who was living with the deceased as his wife or widower or in respect of children granted in respect of a death due to service or war injury under the power referred to in section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(**k**) (pensions etc., for death or disablement due to service of members of the armed forces) in so far as the pension or allowance concerned falls to be determined by the Department of Health and Social Security or under any power conferred by or under any of the Acts mentioned in sub-paragraph (*a*) of paragraph (6) of this rule or under any such scheme as is mentioned in sub-paragraph (*b*) of that paragraph except so much of any pension or allowance for a widow or widower as exceeds the sum specified in article 8(1)(*a*) of the Social Security Pensions (Northern Ireland) Order 1975.

(6) The Acts and schemes mentioned in paragraph (5) of this rule are—

(*a*) the Personal Injuries (Emergency Provisions) Act 1939(**l**), the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(**m**) and the Polish Resettlement Act 1947(**n**);

(*b*) any scheme made under the Injuries in War (Compensation) Act 1914(**o**), or the Injuries in War (Compensation) Act 1914 (Session 2)(**p**) and any War Risk Compensation Scheme for the Mercantile Marine;

(7) In paragraphs (1) to (6) of this rule any reference to an allowance, pension, benefit or other payment of any description includes a reference to any analogous allowance, pension, benefit or payment.

(8) There shall not be disregarded under paragraphs (1) to (7) of this rule any income so far as it consists of one or more payments of any kind to which this paragraph and paragraph (9) apply, that is to say—

(*a*) any pension or other periodical sum paid to, or to the widow of, a person by reason of any service or employment in which he was formerly engaged;

(*b*) any periodical sum paid to a person on account of his employment having terminated by reason of redundancy.

(9) Sub-paragraphs (*a*) and (*b*) of paragraph (8) above apply whether or not the payment is made by a former employer and whether or not there is any right to receive it; but sub-paragraph (*a*) shall not be construed as applying to any payment out of a trust fund established for relieving hardship in particular cases and made at the discretion of the trustees of the fund.

(10) Where under section 4(4) of the Act the resources of two or more persons are to be aggregated, the preceding provisions of this rule shall apply to the aggregate of both or all of the said persons.

(11) Any sums payable to any person as holder of the Victoria Cross or of the George Cross shall be wholly disregarded.

6. There shall be disregarded—

(*a*) attendance allowance paid under the Social Security (Northern Ireland) Acts 1975 to 1980(**q**);

(*b*) mobility allowance paid under the Social Security Pensions (Northern Ireland) Act 1975; and

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(**j**) S.I. 1975/1503 (N.I. 15)
(**k**) 1977 c. 5
(**l**) 1939 c. 82
(**m**) 1939 c. 83
(**n**) 1947 c. 19
(**o**) 1914 c. 30
(**p**) 5 and 6 Geo. 5 c. 18
(**q**) As defined in Article 1(2) of the Social Security (Northern Ireland) Order 1980 S.I. 1980/870 (N.I. 8)

(*c*) constant attendance allowance paid as an increase to a disablement pension under section 61 of the Social Security (Northern Ireland) Act 1975.

7. When the income of the person concerned consists, wholly or in part, of a wage or salary from employment there shall be deducted—

(*a*) the reasonable expenses of travelling to and from his place of employment;

(*b*) the amount of any payments reasonably made for membership of a trade union or professional organisation; and

(*c*) when it would be reasonable to do so, an amount to provide for the care of any dependent child living with the person concerned during the time that person is absent from the home by reason of employment, and

(*d*) the amount of any contribution paid, whether under a legal obligation or not, to an occupational pension scheme within the meaning of the Social Security Pensions (Northern Ireland) Order 1975.

8. There shall be a deduction in respect of contributions payable by the person concerned (whether by deduction or otherwise) under the Social Security (Northern Ireland) Acts, 1975 to 1980, of the amount estimated to be so payable in the 12 months following the application for a certificate.

9.—(1) There shall be a deduction in respect of rent of the main or only dwelling in the case of a householder of the amount of the net rent payable, or such part thereof as is reasonable in the circumstances and the assessment officer shall decide which is the main dwelling where the person concerned resides in more than one dwelling in which he has an interest.

(2) In this rule the expression "rent" means—

(*a*) the rent payable in respect of a year; and

(*b*) a sum in respect of the yearly outgoings borne by the householder including, in particular, rates, a reasonable allowance towards any necessary expenditure on repairs and insurance and any annual instalment (whether of interest or capital) payable in respect of a mortgage debt or heritable security charged on the house in which the householder resides or on any interest therein.

(3) In this rule the expression "net rent" means the rent less any proceeds of sub-letting any part of the premises in respect of which the said rent is paid or the outgoings incurred.

Provided that, where any person or persons other than the person concerned, his or her spouse or any dependant of his or hers is accommodated, otherwise than as a sub-tenant, in the premises for which the rent is paid, the rent may be deemed to be reduced by an amount reasonably attributable to such other person.

(4) Where the amount of the rent or rates is met by a rebate under article 9 of the Housing (Northern Ireland) Order 1976(**r**) or article 6 of the Housing Finance (Northern Ireland) Order 1977(**s**) or allowance under article 59 of the Rent (Northern Ireland) Order 1978(**t**), or by any rate rebate, the amount so met shall be deducted from the rent to be considered under sub-paragraph (1) of this paragraph.

10. If the person concerned is not a householder, there shall be a deduction in respect of the cost of his living accommodation of such amount as is reasonable in the circumstances.

11.—(1) There shall be a deduction in respect of the maintenance of the spouse of the person concerned, if the spouses are living together, in respect of the maintenance of any dependent child and in respect of the maintenance of any dependent relative of the person concerned, being (in either of such cases) a member of his or her household, at the following rates—

(*a*) in the case of a spouse at a rate equivalent to 50% above the amount specified for the time being in column (3) of paragraph 6 of Part IV of Schedule 4 to the Social Security (Northern Ireland) Act 1975 (increase for adult dependant of Category A retirement pensioner);

(**r**) S.I. 1976/1780 (N.I. 25)
(**s**) S.I. 1977/597 (N.I. 8)
(**t**) S.I. 1978/1050 (N.I. 20)

(*b*) in the case of a dependent child or a dependent relative, at a rate equivalent to 50% above the amount specified for the time being in paragraph 3 of Schedule 1 to the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980(**u**) appropriate to the age of the child or relative:

Provided that the assessment officer may reduce such rate by taking into account the income and other resources of the dependent child or other dependant to such extent as appears to the officer to be just and equitable.

(2) In ascertaining whether a child is a dependent child and whether a person is a dependent relative regard shall be had to their income and other resources.

12. If the person concerned is making and, throughout such period as the assessment officer may consider adequate, has regularly made bona fide payments for the maintenance of a spouse who is living apart, of a former spouse, of a child or of a relative who is not (in any of such cases) a member of the household of the person concerned, there shall be a deduction at the rate of such payments or at such rate, not exceeding the rate of such payments, as in all the circumstances is reasonable.

13. Where the person concerned must provide for any other matter the assessment officer may make an allowance of such amount as he considers to be reasonable in the circumstances of the case.

14. In computing the income from any source there shall be disregarded such amount, if any, as the assessment officer considers to be reasonable having regard to the nature of the income or to any other circumstances of the case.

(**u**) S.R. 1980 No. 347

SCHEDULE 3 Regulation 4

Rules for computing disposable capital

1. Subject to the provisions of these Regulations there shall be included in the computation of the amount of the capital of the person concerned the amount or value of every resource of a capital nature ascertained as on the date of the application for a certificate:

Provided that, where it is brought to the notice of the assessment officer that, between the date of application for a certificate and the determination of the officer there has been a substantial fluctuation in the value of a resource or there has been a substantial variation in the nature of a resource affecting the basis of computation of its value, or any resource has ceased to exist or a new resource has come into the possession of the person concerned, the officer shall compute the capital resources of that person in the light of such facts and the resources as so computed shall be taken into account in the officer's determination.

2. So far as any resource does not consist of money, the amount or value thereof shall be taken to be the amount which that resource would realise if sold in the open market or, if there is only a restricted market for that resource, the amount which it would realise in that market, or shall be taken to be the amount or value thereof assessed in such manner as appears to the assessment officer to be just and equitable.

3. Where money is due to the person concerned, whether immediately payable or otherwise and whether the payment thereof is secured or not, the value shall be taken to be the present value thereof.

4. If the person concerned stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, the officer may, in lieu of ascertaining the value of his stocks, shares, bonds or debentures in that company, treat that person as if he were such sole owner or partner and compute the amount of his capital in respect of that resource in accordance with the next succeeding rule.

5. Where the person concerned is or is to be treated as the sole owner of or a partner in any business, the value of such business or his share therein to that person shall be taken to be either:—

(*a*) such sum, or his share of such sum, as the case may be, as could be withdrawn from the assets of such business without substantially impairing the profits of such business or the normal development thereof; or

(*b*) such sum as that person could borrow on the security of his interest in such business without injuring the commercial credit of that business;

whichever is the greater.

6. The value of any interest in reversion or remainder on the termination of a prior estate, whether legal or equitable, in any real or personal property or in a trust or other fund, whether the person concerned has the sole interest or an interest jointly or in common with other persons or whether his interest is vested or contingent, shall be computed in such manner as is both equitable and practicable.

7. In computing the amount of capital of the person concerned, there shall be wholly disregarded—

(*a*) any death grant paid to a person under the provisions of section 32 of the Social Security (Northern Ireland) Act 1975(v); and

(*b*) any maternity grant to which a woman is entitled under section 21 of the Social Security (Northern Ireland) Act 1975.

8. Save in exceptional circumstances, nothing shall be included in the amount of capital of the person concerned in respect of—

(*a*) the household furniture and effects of the dwelling house occupied by him;

(*b*) articles of personal clothing; and

(*c*) the personal tools and equipment of his trade, not being part of the plant or equipment of a business to which the provisions of rule 5 of this Schedule apply.

(v) 1975 c. 15

9.—(1) In computing the amount of capital of the person concerned, the value of any interest in the main or only dwelling in which he resides shall be wholly disregarded.

(2) Where the person concerned resides in more than one dwelling in which he has an interest, the assessment officer shall decide which is the main dwelling and shall take into account in respect of the value to him of any interest in a dwelling which is not the main dwelling any sum which might be obtained by borrowing money on the security thereof.

10. Where the person concerned has received or is entitled to receive from a body of which he is a member a sum of money by way of financial assistance towards the cost of the proceedings in respect of which a certificate is applied for, such sum shall be disregarded.

11. The value of any life assurance or endowment policy shall be taken to be the amount which the person concerned could readily borrow on the security thereof.

12. Where under any statute, bond, covenant, guarantee or other instrument the person concerned is under a contingent liability to pay any sum or is liable to pay a sum not yet ascertained, an allowance shall be made of such an amount as is reasonably likely to become payable within the 12 months immediately following the date of application for a certificate.

13. An allowance may be made in respect of any debt owing by the person concerned (other than a debt secured on the dwelling or dwellings in which he resides) to the extent to which the assessment officer considers reasonable, provided that the person concerned produces evidence to the satisfaction of the officer that the debt or part of the debt will be discharged within the 12 months immediately following the date of application for a certificate.

14. In computing the amount of capital there shall be disregarded such an amount of capital, if any, as the assessment officer in the circumstances of the case may in his discretion decide.

EXPLANATORY NOTE

(This note is not part of the Regulations, but is intended to indicate their general purport.)

These regulations consolidate, with amendments, the Legal Aid (Assessment of Resources) Regulations (Northern Ireland) 1965 and subsequent amending regulations.

The main changes are:—

(*a*) the assessment of resources will be carried out by an officer appointed by the Department of Health and Social Services (regulation 3);

(*b*) maintenance paid under a court order shall not be excluded from the assessment of resources on the basis that it forms the subject matter of the dispute (regulation 5(2));

(*c*) where a person is concerned in proceedings in a representative capacity the means of anyone who might benefit from the outcome may be taken into account (regulation 6); and

(*d*) with a view to the discharge of a person's certificate, a committee may require a determination of current disposable income and disposable capital outside the original period of computation (regulation 13).

The regulations also contain the rules for computing disposable income (Schedule 2) and disposable capital (Schedule 3).