STATUTORY INSTRUMENTS

1979 No. 360

LEGAL AID AND ADVICE, ENGLAND

The Legal Aid in Criminal Proceedings (Fees and Expenses) (Amendment) Regulations 1979

Made - - - -	*24th March* 1979
Laid before Parliament	*2nd April* 1979
Coming into Operation	*1st May* 1979

In exercise of the powers conferred upon me by section 39 of the Legal Aid Act 1974(**a**), I hereby make the following Regulations:—

1. These Regulations may be cited as the Legal Aid in Criminal Proceedings (Fees and Expenses) (Amendment) Regulations 1979 and shall come into operation on 1st May 1979.

2. In Regulation 1(1) of the Legal Aid in Criminal Proceedings (Fees and Expenses) Regulations 1968(**b**) (hereinafter referred to as "the Regulations") for the words "a solicitor or counsel assigned" there shall be substituted the words "counsel and to the solicitor assigned".

3. For Regulation 2(6) of the Regulations there shall be substituted the following paragraph:—

"(6) Where a legal aid order is made in respect of proceedings in a magistrates' court and does not provide for the services of counsel but counsel is employed, the solicitor and counsel shall each be allowed such costs, fees and expenses as appear to be reasonable provided that the total amount of such costs, fees and expenses shall not be greater than those to which the solicitor would have been entitled if counsel had not been so employed.".

4. In Regulation 3 of the Regulations, the words in brackets in and the proviso to paragraph (1) and paragraph (2) shall be omitted.

5. For Regulation 9(4) and (5) of the Regulations there shall be substituted the following paragraphs:—

"(4) The Chief Taxing Master may, and if so directed by the Secretary of State either generally or in a particular case shall, send to the Secretary of State a copy of the application, a copy of the representations made under Regulation 8(1), a copy of the taxing authority's reasons given under paragraph (1) of this Regulation and the bill of costs together with such supporting documents as may be requested by the Secretary of State.

(5) With a view to ensuring that all considerations relevant to that review are taken into account whether they relate to the interests of the Secretary of State or of the solicitor or counsel concerned, the Secretary of State may arrange for written or oral representations to be made on his

(**a**) 1974 c. 4. (**b**) S.I. 1968/1230.

behalf; and the Secretary of State shall send a copy of such written representations to the solicitor or counsel who shall be permitted a reasonable opportunity to make written representations in reply.

(5A) If it is intended that oral representations be made on behalf of the Secretary of State, the Chief Taxing Master and the solicitor or counsel shall be notified by or on behalf of the Secretary of State and such notification shall indicate the grounds upon which the representations will be made and the solicitor or counsel shall be permitted a reasonable opportunity to make representations in reply.

(5B) The review shall be by a Taxing Master and the solicitor or counsel may appear in person or be represented—

(*a*) in the case of the solicitor, by an agent of his;

(*b*) in the case of counsel, by another counsel or the solicitor or the solicitor's agent.

(5C) Any application under paragraph (2) of this Regulation shall state whether the solicitor or counsel wishes to appear or be represented or whether he will accept a decision given in his absence.

(5D) If the solicitor or counsel has given notice of his intention to appear or be represented or notification has been given under paragraph (5A) of this Regulation, the Taxing Master shall inform the solicitor or counsel (or his representative) as the case may be and the Secretary of State of the date of the hearing and, subject to the provisions of this Regulation, may give directions as to the conduct of the review.".

6. In Regulation 9(8) at the end there shall be inserted the words "and to the Secretary of State if he has made representations under paragraph (5) of this Regulation".

7. For Regulation 10(1) there shall be substituted the following paragraphs:—

"(1) If a solicitor or counsel or the Secretary of State, if he has made representations under Regulation 9(5), is dissatisfied with the review of the decision of the taxing authority by the Taxing Master, he may, within 14 days of receiving notification of the result of the review, appeal to the High Court:

Provided that the solicitor or counsel shall not be entitled to appeal under this Regulation unless the Taxing Master certifies that the question to be decided involves a point of principle of general importance.

(1A) In the case of an appeal by the solicitor or counsel, where the Secretary of State made representations as aforesaid, the Secretary of State shall be the respondent and, in the case of an appeal by the Secretary of State, the solicitor or counsel, as the case may be, shall be the respondent.".

Merlyn Rees,
One of Her Majesty's Principal Secretaries of State.

Home Office.
24th March 1979.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Legal Aid in Criminal Proceedings (Fees and Expenses) Regulations 1968. Regulations 2 and 3 amend Regulations 1 and 2 of the 1968 Regulations in order to facilitate the operation of the Law Society's functions as a taxing authority in the case of magistrates' courts where a counsel is instructed although the legal aid order does not provide for the services of counsel. Regulation 4 amends Regulation 3 of the 1968 Regulations to give the taxing authority a discretion to award to the solicitor or counsel assigned or instructed in respect of two or more persons whose cases are to be heard together such fees as appear to be proper in all the circumstances of the case. Regulations 5 to 7 amend Regulations 9 and 10 of the 1968 Regulations to empower the Secretary of State to intervene in a review by a Taxing Master with a view to ensuring that all considerations relevant to that review are taken into account and to appeal to the High Court from any decision of the Taxing Master in that review.

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