

THE LEGAL AID ACT 1986

THE CRIMINAL LEGAL AID REGULATIONS 1993

Approved by Tynwald 16th November 1993

Coming into Operation 1st January 1994

In exercise of the powers conferred on the Legal Aid Committee by section 20 of, and Schedule 3A to, the Legal Aid Act 1986(a), and of all other enabling powers, the following Regulations are hereby made:

PART 1

GENERAL

Citation and Commencement

1. These Regulations may be cited as the Criminal Legal Aid Regulations 1993 and, subject to section 24 of the Act, shall come into operation on the 1st January 1994.

Interpretation

2. (1) In these Regulations -

“the Act” means the Legal Aid Act 1986;

“applicant” means, in relation to an application made on behalf of a person aged under 16 by his parent or guardian, that person and, in the case of any other application, the person making the application;

“application” means an application for a legal aid certificate for the purpose of criminal proceedings;

“the appropriate officer” means -

(a) the Chief Registrar, in relation to the High Court or any Division thereof or a Deemster;

(b) the clerk or secretary to the authority, in relation to any other relevant authority;

(c) the Legal Aid Certifying Officer in relation to any appeal to the Staff of Government Division (including representation at Attorney General’s Reference Proceedings).

“assisted person” means a person to whom a legal aid certificate has been granted.

“contribution”, “contribution order” and “contributor” have the same meanings as in Schedule 3A to the Act;

“contribution period” means the period of 26 weeks beginning with the date of the making of the contribution order.

“criminal proceedings” means any proceedings specified in column 1 of the Schedule 3 to the Act;

“disposable capital” and “disposable income” mean disposable capital and disposable income respectively calculated in accordance with Schedule 2;

“person concerned” means the person whose means are to be determined or whose means are to be taken into account in determining the means of any other person under these Regulations;

“relevant authority (subject to paragraph (2)) has the meaning given by section 18(1) of the Act;

“statement of means” means a statement of means submitted in accordance with regulations 10.

(2) Where any functions of the relevant authority under these Regulations stand delegated to the appropriate officer under regulation 4(2) or 11(5), references in these Regulations (except regulation 5(3)) to the relevant authority shall be construed, in relation to those functions, as references to the appropriate officer.

(3) Any references in these Regulations to a numbered form is to the form so numbered in Schedule 1.

Revocation and Saving

3. (1) The Criminal Legal Aid Regulations 1991(b) are revoked.

(2) Nothing in these Regulations applies in relation to a legal aid certificate granted before the commencement of these Regulations.

PART 2

LEGAL AID CERTIFICATES

Application for Criminal Legal Aid

4. (1) An application shall be made either -

(a) in writing in form 1 to the appropriate officer of the relevant authority, or

(b) orally to the relevant authority.

(2) A relevant authority may direct that any application be referred to the appropriate officer for determination, either generally or in any particular case or in the case of any class of applications.

(3) If it appears to the appropriate officer of the relevant authority in any case that, although no application has been made, a legal aid certificate ought to be granted, he shall report the circumstances to the authority.

Notification of Refusal of Legal Aid

5. (1) Where an application is refused by a relevant authority, the appropriate officer shall notify the applicant in form 2 that the application has been refused on one or both of the following grounds -

- (a) (except where section 18(2) of the Act applies) it does not appear to the authority or officer desirable to grant it in the interests of justice, or
 - (b) it does not appear to the authority that the applicant's means are insufficient to enable him to meet the costs which he may incur in the proceedings.
- (2) The notification in form 2 shall also inform the applicant of his rights (if any) under paragraph (3) and -
- (a) in the case of an application to a court of summary jurisdiction in relation to proceedings falling within head 3, 4, 5 or 6 of Schedule 3 to the Act, his right to apply to the judge before whom he is to be tried or dealt with;
 - (b) in the case of an application in relation to proceedings falling within head 10 of that Schedule, his right to apply to the Common Law Division;
 - (c) in the case of an application to the Staff of Government Division in relation to proceedings falling within head 12 of that Schedule, his right to apply to the judge before whom he is to be retried.

(3) Where an application is refused by the appropriate officer, the applicant may require that the refused by reviewed by the relevant authority, who may grant or refuse the application; and part 3 and paragraphs (1) and (2) apply to a review under this paragraph as they apply to the original determination of the application.

Legal Aid Certificate

6. (1) Where the relevant authority determines to grant an application, the appropriate officer shall issue a legal aid certificate in form 3 to the applicant, and send 2 copies of the certificate to the High Bailiff.

(2) Where the legal aid certificate is granted by a court of summary jurisdiction in respect of proceedings falling within head 3, 4, 5, 6 or 10 of Schedule 3 to the Act, the appropriate officer shall also send a copy of the certificate to the court by which the proceedings are to be heard.

Assignment of Advocate

7. (1) On receipt of a copy of a legal aid certificate the High Bailiff shall, after considering any representations made by the applicant, assign to the applicant an advocate (being an advocate willing to undertake the case), and shall send to the advocate a copy of the legal aid certificate.

(2) The High Bailiff may by notice in writing to the advocate assigned to an assisted person revoke the assignment -

(a) at the request of the assisted person or the advocate; or

(b) of his own motion -

(i) if the advocate withdraws from the case, or dies or is incapable of conducting the case; or

(ii) if the High Bailiff is of opinion that the interests of justice require it;

and shall send a copy of the notice to the assisted person.

(3) Before the High Bailiff revokes an assignment under paragraph (2)(b)(ii) he shall give the advocate an opportunity of making representations to him.

(4) Where the High Bailiff revokes an assignment, he may -

(a) after considering any representations made by the assisted person, assign another advocate to him; or

(b) if he thinks fit, refer the case to the relevant authority.

(5) The revocation of the assignment shall not affect the entitlement of the advocate to costs in respect of work done before the revocation.

Revocation of Legal Aid Certificate

8. (1) The relevant authority may revoke a legal aid certificate -

(a) at the request of the assisted person;

(b) if the case is referred to the relevant authority under regulation 7(4)(b) and the authority considers that, because of the assisted person's conduct, he ought no longer to have free legal aid in the preparation and conduct of the proceedings;

(c) if the relevant authority is satisfied that the means of the assisted person are not, or have ceased to be, insufficient to enable him to meet the costs which he may incur in the proceedings;

(d) if the relevant authority is satisfied that the assisted person (whether or not he has been convicted of an offence under section 22(1) of the Act) has failed to supply any information required by these Regulations, or in furnishing any such information has knowingly made a false statement or false representation.

(2) The relevant authority shall forthwith notify the assisted person and the advocate of the revocation of a legal aid certificate, and the revocation shall not affect the entitlement of the advocate to costs in respect of work done before such notification.

PART 3

CONTRIBUTIONS

Persons whose means are to be assessed

9. (1) Subject to paragraph (2), the means of the following persons shall be taken into account in determining the means of any person by or on behalf of whom an application is made -

(a) the person by or on behalf of whom the application is made;

(b) the wife or husband of that person;

(c) any person who is a contributor in relation to that person.

(2) The means of the wife or husband of a person shall not be taken into account where -

(a) they are living separate and apart; or

(b) in all the circumstances of the case it would be inequitable to do so.

(3) Where a man and a woman are living with each other in the same household, they shall be treated for the purposes of this Part as if they were husband and wife.

Statement of Means

10. (1) Subject to paragraph (2), there shall be submitted with an application, or as soon after submitting the application as the appropriate officer may require, a statement in form 4 of the means of every person whose means are to be taken into account under regulation 9, signed by the person concerned or that person's husband or wife.

(2) A statement of means shall not be required under paragraph (1) in respect of a legal aid certificate granted to a person under 16 where -

(a) it appears to the relevant authority that, by reason of his physical or mental condition, the assisted person is for the time being incapable of furnishing such a statement; or

(b) the assisted person has already submitted such a statement in connection with a previous application in respect of the same proceedings and his financial circumstances have not changed.

(3) Nothing in paragraph (2)(a) prevents the relevant authority requiring an assisted person to provide a statement of means where it appears that he is no longer incapable of furnishing such a statement.

(4) At any time after the submission of a statement of means, the relevant authority may require the person concerned to provide evidence of any information given in a statement of means or of any change in his financial circumstances together with such additional information as the authority may require.

Determination of Contributions

11. (1) The relevant authority shall, when granting a legal aid certificate, determine in accordance with this regulation, or in accordance with paragraph 1(4)(b) of Schedule 3A to the Act where that provision applies, the amount of any contribution payable by -

(a) the assisted person, or

(b) any person who is a contributor in relation to the assisted person,

or by all or any of those persons.

(2) The relevant authority shall -

(a) consider the statement of means and any other relevant information; and

(b) subject to paragraph (3), determine the means of the person concerned in accordance with Schedule 2.

(3) The relevant authority shall not make a determination under paragraph (2)(b) where, by virtue of regulation 12(2), no contribution order may be made.

(4) Subject to paragraph (3), and to paragraph 1(4) of Schedule 3A to the Act, where the means of the person concerned exceed the amount specified in paragraph 1 of Schedule 3, that person shall pay a contribution in accordance with either or both of paragraphs 2 and 3 of that Schedule.

(5) A relevant authority may direct that the amount of any contribution shall be determined by the appropriate officer, either generally or in any particular case or in the case of any class of applications.

(6) No contribution shall be payable where the person concerned is (directly or indirectly) in receipt of Isle of Man income-related benefits.

Contribution Orders

12. (1) Subject to paragraph (2), the relevant authority shall make a contribution order in form 5 in respect of any contribution determined under regulation 11 or under paragraph 1(4)(b) of Schedule 3A to the Act, and shall endorse the legal aid certificate accordingly.

(2) No contribution order shall be made in connection with a legal aid certificate in respect of proceedings by way of appeal against a conviction or order of any court, where a contribution order was made in connection with a legal aid certificate in respect of the proceedings in which the conviction or order was made.

(3) A copy of the contribution order shall be sent to the person ordered to make the contribution, to the assisted person's advocate and to the Clerk to the Justices.

Payment of Contributions

13. (1) Any contribution which is ordered to be paid by instalments shall be payable by weekly instalments (or, at the discretion of the relevant authority, by fortnightly or monthly instalments) within a period not exceeding the contribution period, and the first such instalment shall fall due 7 days from the date of the making of the contribution order.

(2) Any contribution which is to be paid in one sum shall be paid immediately if the sum is readily available or, if it is not, at such time as the relevant authority considers to be reasonable in all the circumstances.

(3) Where a contribution payable in a lump sum is to be paid immediately, the legal aid certificate shall not take effect until such payment is made, and the appropriate officer shall give notice of this fact in form 6 to -

(a) the applicant and the contributor, and

(b) the advocate assigned.

(4) Payment of contributions shall be made to the Clerk to the Justices at such place and in such manner as he may direct.

Change in Financial Circumstances

14. The assisted person or the contributor shall inform the relevant authority or the appropriate officer of any change in his financial circumstances which has occurred since the submission of his statement of means and which he has reason to believe -

- (a) might make him liable to pay a contribution where such a contribution is not already payable; or
- (b) might affect the terms of any contribution order made in connection with a legal aid certificate.

Determination where no contribution previously payable.

15. (1) The relevant authority shall determine the amount of any contribution payable by an assisted person or a contributor who is not already liable to make such a contribution where -

- (a) further information has become available as to his means at the time when the legal aid certificate was granted; or
- (b) the circumstances upon which his means were determined at the time when the legal aid certificate was granted have altered within the contribution period.

(2) Regulation 11 shall apply where a contribution is determined under paragraph (1) as it applies where a contribution is determined on the granting of a legal aid certificate.

Redetermination of contribution

16. Except where it appears unlikely that any significant change in liability to make a contribution would result, the relevant authority shall redetermine the amount of any contribution payable by an assisted person or a contributor under a legal aid certificate where -

16. Except where it appears unlikely that any significant change in liability to make a contribution would result, the relevant authority shall redetermine the amount of any contribution payable by an assisted person or a contributor under a legal aid certificate where -

- (a) further information has become available as to his means at the time when the contribution order was made; or
- (b) the circumstances upon which his means were determined at the time when the contribution order was made have altered within the contribution period (unless the alteration is within the limits specified in paragraph 4 of the Schedule 3);

and shall vary or revoke the contribution order accordingly.

Correction of error or mistake

17. Where it appears to the relevant authority that there has been some error or mistake in the determination of the assisted person's or contributor's means or contribution and that it would be just and equitable to correct the error or mistake, the authority may vary or revoke the contribution order accordingly or may make a contribution order.

Variation and revocation of contribution orders

18. (1) Where a contribution order is revoked, or varied to an amount which is less than that which has already been paid, the relevant authority shall order the payment of any sum paid or overpaid, as the case may be.

(2) Where -

- (a) a contribution order is varied to an amount greater than that which was previously payable;
or
- (b) a contribution order is made after a determination under regulation 16;

and any payment is to be made by instalments, the relevant authority may, for the purpose of such payment, extend the period provided in regulation 13 within which such payment is to be made.

(3) An order varying or revoking a contribution order shall be in form 7 and a copy of it shall be sent to the person ordered to make the contribution, to the assisted person's advocate and to the Clerk to the Justices.

Refusal to pay contribution

19. (1) Where any sums which are due under a contribution order before the conclusion of the proceedings have not been paid by the assisted person or contributor, the appropriate officer may -

- (a) serve notice in form 8 on the assisted person or contributor requiring him to comply with the contribution order and pay any sums due under it within 7 days of receiving such notice; and
- (b) if he does not do so, serve notice in form 9 on him inviting him to make representations as to why he cannot comply with the contribution order.

(2) Copies of any notice given under paragraph (1) shall be sent to the advocate for the assisted person and (in the case of a notice served on a contributor) to the assisted person.

(3) The relevant authority shall consider any representations made under paragraph (1)(b) and, if satisfied that the assisted person or contributor -

- (a) was able to pay the relevant contribution when it was due; and
- (b) is able to pay the whole or part of it but has failed or refused to do so,

may revoke the legal aid certificate.

(4) The revocation of a legal aid certificate under paragraph (3) shall not affect the right of any advocate previously assigned to the assisted person to remuneration for work done before the date of the revocation.

Termination of contribution period

20. (1) Where the contribution period has not ended and -

- (a) the assisted person, the contributor or the wife or husband of the assisted person or contributor begins to receive supplementary benefit or family income supplement; or
- (b) the court remits any sum under a contribution order which falls to be paid after the conclusion of the relevant proceedings; or
- (c) the assisted person is sentenced in the proceedings to which the legal aid certificate relates to an immediate term of imprisonment,

the contribution period shall be deemed to have ended on the date receipt of supplementary benefit or family income supplement commenced or on the date of that remission of sentence, as the case may be.

(2) In a case where the means of the wife or husband of a person are not to be taken into account in determining the means of that person by virtue of regulation 9(2), paragraph (1)(a) has effect as if any reference to the wife or husband of that person were omitted.

(3) The court making any such remission or passing any such sentence shall inform the Clerk to the Justices that the contribution period is to be deemed to have ended on the date of the remission or sentence.

(4) Without prejudice to regulation 15, the assisted person or the contributor shall inform the Clerk to the Justices of the date on which receipt of supplementary benefit or family income supplemented commenced.

Disposal of sums received from assisted persons after conviction

21. (1) This regulation applies to an assisted person who is ordered to pay any sum adjudged to be paid on conviction and to a contributor who is ordered to pay a fine, compensation or costs under section 49 of the Children and Young Persons Act 1966(c).

(2) Where an assisted person or a contributor to whom this regulation applies had been ordered to make a contribution, any amounts falling due under the contribution order after the conclusion of the relevant proceedings shall, unless remitted or specifically appropriated by the person paying the money to payment of the contribution, be applied (when paid) first in accordance with section 2 of the Collection of Fines etc. Act 1985(d).

PART 4

COSTS

Assessment of costs

22. (1) The advocate assigned to an assisted person shall submit to the Chief Registrar a bill of costs which shall contain the following details -

- (a) a summary of the work done;
- (b) preparation time;
- (c) travelling and waiting time;
- (d) appearance time;
- (e) particulars of disbursements incurred; and
- (f) such further information as may be required by the Chief Registrar for the purpose of determining the costs payable in accordance with section 19 of the Act.

(2) The costs payable to the advocate shall be taxed by the Chief Registrar, who shall allow such sums as are payable under section 19(2) of the Act or in accordance with the relevant order under section 19(3) of the Act, as the case may be.

(3) At any time before the proceedings have been determined the advocate may submit to the Chief Registrar an interim bill of costs in respect of work done and disbursements incurred up to that time, and the Chief Registrar may either tax the bill in accordance with paragraph (2) or, without taxing the bill, allow to the advocate a payment on account of such costs and disbursements.

(4) The Legal Aid Certifying Officer or the Chief Registrar, after consultation with the Committee, may give general authority to advocates acting for assisted persons in any particular class of case –

(a) to obtain a report or opinion of one or more experts or to tender expert evidence;

(b) to employ a person to provide a report or opinion (other than as an expert);

(c) to bespeak transcripts or shorthand notes or tape recordings of any proceedings;

and if such authority is given it shall specify the maximum fee payable for any such report, opinion, expert evidence or transcript.

(5) Where it appears to an assisted person's advocate that any of the matters described in paragraph (4) is necessary to the proper conduct of the proceedings and such matters have not been generally authorised as mentioned above, the advocate may apply to the Legal Aid Certifying Officer for the necessary authority, and such authority may be given by the Legal Aid Certifying Officer subject to terms and conditions as the Certifying Officer thinks appropriate.

FORMS

FORM 1

APPLICATION FOR LEGAL AID

LEGAL AID ACT 1986
CRIMINAL LEGAL AID REGULATIONS 1993

I apply for legal aid for the purpose of proceedings before the [*court*]

Personal details

Name in full:

Date of birth:

Permanent address:

Present address (if different):

Case details

Describe briefly nature of case or appeal:

Court proceedings

I am due to appear before

Court

on

20

at

am/pm

I appeared before

Court

on

20

and was

[committed for trial to a Court of General Gaol Delivery]
[convicted and committed for sentence to a Court of General Gaol Delivery]
[convicted and / or sentenced and I wish to appeal again -

[conviction] [sentence] [conviction and sentence]

or as the case may be

Outstanding matters

Give details of any other outstanding criminal charges or cases against you

Other defendants or appellants

The following person[s] is / are [charged] [appealing] in respect of the same or related matters:
(give name[s] or state "none")

Financial position

[I attach a statement of my means]
[I have already given a statement of my means to the
and there has been no change in my financial position.]

Court

Legal representation

The advocate I wish to act for me is

Address

(Note: if an advocate has been assigned to represent some other person in respect of the same or related matters, then unless there are special reasons for not doing so, the same advocate will be assigned to you.)

Reasons for wanting legal aid

Tick any boxes which apply and give brief details or reasons

- I am in real danger of a custodial sentence*
- I am subject to a
[suspended or partly suspended sentence]
[conditional discharge]
[supervision order]
[probation order]
[community service order]
[care order] Give details of offence and date of sentence or order
- I am in real danger of losing my job because
- I have been advised by an advocate that substantial question of law is involved*
- Witnesses have to be traced and interviewed on my behalf
- I shall be unable to follow the court proceedings because
[my understanding of English is poor]
[I suffer from a disability]
- The case involves expert cross-examination of a prosecution witness*
- The case is a very complex one
e.g. mistaken identity*

* You should see an advocate before answering this question.

I understand that if I wilfully fail to supply any information required by the Regulations or if, in furnishing any such information, I knowingly make any false statement or false representation, any legal aid certificate may be revoked, and I shall be liable to imprisonment or a fine or both.

Signed

Date

FORM 2

NOTIFICATION OF REFUSAL OF LEGAL AID

**LEGAL AID ACT 1986
CRIMINAL LEGAL AID REGULATIONS 1993**

To

Your application for legal aid has been refused by [me as appropriate officer of] the Court on the following grounds -

[it does not appear to [me] [the Court] desirable to grant it in the interests of justice]

[it does not appear to [me] [the Court] that your means are insufficient to enable you to meet the costs which you may incur in the proceedings]

[You may apply to the Court to have my decision reviewed. The application is to be made to me in writing, and should include the reasons why you consider my decision is wrong.]

[You may [also] make a further application for legal aid to the judge before whom you will be tried] [by whom you will be sentenced] *or as the case may be*]

Signed

Date

FORM 3

LEGAL AID CERTIFICATE

**LEGAL AID ACT 1986
CRIMINAL LEGAL AID REGULATIONS 1993**

I hereby certify that it appears to [me] [the Court]
that it is desirable in the interests of justice that

of

should have legal aid in the preparation and conduct of his case in the following proceedings, namely

trial before a Court of General Gaol Delivery on the charge of burglary of [*premises*] on [*date*]

appeal to the Staff of Government Division against conviction and sentence by the High Bailiff on
[*date*] on the charge of driving without due care and attention on [*date*]

or as the case may be

and that his means are insufficient to enable him to meet the costs which he may incur in the proceedings.

Signed

Date

A contribution order of £ was made in respect of this certificate.

FORM 4

STATEMENT OF MEANS

**LEGAL AID ACT 1986
CRIMINAL LEGAL AID REGULATIONS 1993**

Personal details

Name in full:

Date of birth:

Permanent address:

Present address (if different):

Marital status: *tick appropriate box*

Single

Single and living together

Widow[er]

Married

Married but separated

Divorced

Do you, or does your wife / husband*, receive family income supplement or supplementary benefit?

Financial details: A. Income

WORK

Yours

Your wife's / husband's

Employer's name and address:

Take-home pay per week (after tax and insurance) including overtime, bonus and commission:

Attach wage-slips for the last 3 months.

If your pay changes each week, show amounts for the last 13 weeks (or as many as you can) and attach wage-slips.

If you are self-employed, write SELF-EMPLOYED. Show your take-home pay and attach the most recent amounts showing gross income.

Part-time work

Take-home pay per week from any job not included above

*NOTE: references in this form to your wife / husband include any person with whom you are living as man and wife.

STATE BENEFITS

Yours

Your wife's/husband's

Enter weekly amounts from eg. Unemployment benefit, child benefit etc.

Say which benefit you or your wife/husband gets:

MONEY FROM PROPERTY

Enter weekly amount (before deductions) of money from letting house, flat or rooms

ANY OTHER INCOME

Enter details and weekly amounts

Financial details: B. Capital and savings

Yours

Your wife's/husband's

PROPERTY

Do you or your wife/husband own a house or property other than your only or main dwelling?

If YES, state the approximate selling price: and the amount of any outstanding mortgage:

£

£

£

£

SAVINGS

Give details of where your savings are, and the amounts. Include money in any bank, building society, National Savings, cash, stocks and shares and any other investments

ARTICLES OF VALUE

Give details of any article of value that you own (eg. jewellery, furs, paintings) and their approximate value.

Dependants

or your

(Dependants are the people you

wife/husband look after financially.)

Enter the number of dependants who are living with you.

Wife/husband

Children
18 or over

Children
16 or 17

Children
11-15

Children
under 11

Others
(say who)

If you pay maintenance to any dependant who does not live with you, give details:

Age

Relationship

Amount
per week

Expenses

HOUSING

Give details of housing expenses of you and your wife/husband. If you own more than one house give details only of the house in which you are living. If you are paying the expenses of more than one dependant who is not living with you, enter details on the right-hand side.

	Amount per week
Rent	£
Mortgage payment	£
Ground rent	£
Service charge	£
Board and lodging	£
Bed and breakfast	£

TRAVEL TO AND FROM WORK

	You	Your wife/husband
How much does it cost you and your wife/husband each week to travel to and from work?		

OTHER EXPENSES

Give details of any other expenses which you think the court should know about. You may include any payments on court orders and contributions to approved pension schemes, but not hire-purchase debts or money for food, clothing or heating.

Further information

You may use this part of the form to give any other financial information which you think the court should have when deciding your application for legal aid. You may also use it to tell the court of any future changes in circumstances that might alter your position.

Declaration

I declare that to the best of my knowledge and belief I have given a complete statement of my income, savings and capital.

I understand that I may be required to produce evidence of any information given in this form.

I understand that, if I wilfully fail to supply any information required by the Regulations or if, in furnishing any such information, I knowingly make any false statement or false representation, any legal aid certificate may be revoked, and I shall be liable to imprisonment or a fine or both.

I undertake to notify the court of any improvement in my financial circumstances.

Signed

Date

FORM 5

CONTRIBUTION ORDER

LEGAL AID ACT 1986
CRIMINAL LEGAL AID REGULATIONS 1993

(Name of court)

To

In accordance with paragraph 1 of Schedule 3A to the Legal Aid Act 1986 the Court orders you to pay a contribution of £ towards the cost of legal aid to be provided for you under a legal aid certificate granted on 200 in relation to the following proceedings -

This contribution is

*payable in one lump sum of £ on or before

*at the rate of £ per week the first instalment to be paid on or before
and subsequent instalments to be paid weekly. The final instalment is due on

*Delete as necessary.

This contribution is to be paid to the Clerk to the Justices at Deemsters Walk, Douglas.

Signed

Date

NOTES

The figures overleaf show how the contribution was calculated. If you are not satisfied with the calculations used, you may apply to this court for your means to be redetermined. If your means change, you must inform the court which is hearing your case IMMEDIATELY so that your contribution can be reassessed and changed if necessary. If you do not want legal aid on these terms, you MUST inform the court IMMEDIATELY by tearing off and returning the slip overleaf.

If your legal aid certificate is revoked, you may still have to pay some money towards any costs already incurred.

If you should prefer to pay monthly, you should inform the court office; the appropriate officer of the court will decide whether you should pay weekly or monthly.

Contribution Order Calculations used

Part 1 - Figures used

(1) Average weekly net INCOME

(2) Allowances against income

dependants

housing

travel

others

Total allowances

(3) CAPITAL

Part 2 - Calculation of periodical payments

(a) Disposable Income is (1) - (2) =

(b) Contribution (as calculated in accordance
with Schedule 3) is

Note: Contributions are rounded to the nearest whole pound. The minimum weekly contribution is

Part 3 - Summary

Your contribution by way of periodical payments is

Your contribution in a lump sum is

Please turn to the front sheet for details of how and when to pay.

Tear off along here

TO BE RETURNED ONLY IF YOU DO *NOT* WANT LEGAL AID ON THESE TERMS

I
of
have been granted legal aid by the Court

I apply for my legal aid certificate to be withdrawn.
I understand that I may be required to pay towards any costs already incurred.

If you do not want legal aid on the terms set out in this notice, you must return this form IMMEDIATELY
to:

Signed

Date

FORM 6

NOTICE OF WITHHOLDING OF LEGAL AID CERTIFICATE

**LEGAL AID ACT 1986
CRIMINAL LEGAL AID REGULATIONS 1993**

(Name of court)

To

The Court has granted you a legal aid certificate in respect of the proceedings before [it] [the Court]. It has also made an order, a copy of which is attached, requiring you to make a contribution in a lump sum towards the cost of your case.

In accordance with regulation 13 of the Criminal Legal Aid Regulations 1993 the court requires you to make immediate payment of that capital contribution to the Clerk to the Justices.

NOTE: You will NOT receive the legal aid certificate until you have made this payment and your advocate will not be covered by the certificate until it has been received.

A copy of this notice has been sent to your advocate.

Signed

Date

FORM 7

VARIATION OR REVOCATION OF CONTRIBUTION ORDER

**LEGAL AID ACT 1986
CRIMINAL LEGAL AID REGULATIONS 1993**

[Name of court]

To

In accordance with the provisions of regulation 16 or 17 of the Criminal Legal Aid Regulations 1993, your means have been reassessed and the court now varies the contribution order made on as follows.

The total amount that you are now required to pay is £
You have already paid £

*Therefore you are no longer required to pay any more instalments of your contribution. Should your means change again, you MUST inform this court, which will then determine whether you should start to pay instalments again.

*The court hereby revokes the contribution order made on

*The sum of £ overpaid by you will be returned to you by the Clerk to the Justices.

*The balance remaining is now £ . This sum should be paid to the Clerk to the Justices
*on or before
*at the rate of £ per week, the first instalment to be paid on or before
, and subsequent instalments to be paid weekly.

NOTE: If your instalments have now increased, and you do not want legal aid on these terms, you must inform the Court IMMEDIATELY.

*Delete as appropriate

Signed

Date

FORM 7

NOTIFICATION OF ARREARS OF PAYMENT OF CONTRIBUTION

LEGAL AID ACT 1986
CRIMINAL LEGAL AID REGULATIONS 1993

[Name of court]

To

You have fallen into arrears in the payment of instalments in respect of your contribution order.
You have missed instalments of £ and are now £ in arrears.

You must pay this sum to the Clerk to the Justices at Deemsters Walk, Douglas WITHIN SEVEN DAYS OF RECEIPT OF THIS NOTICE. If you fail to do so, the court will consider revoking legal aid.

A copy of this form has been sent to [your advocate] [the assisted person and his advocate].

Signed

Date

FORM 7

**WARNING OF REVOCATION OF LEGAL AID CERTIFICATE
FOR NON-PAYMENT OF CONTRIBUTION**

**LEGAL AID ACT 1986
CRIMINAL LEGAL AID REGULATIONS 1993**

[Name of court]

To

You were recently sent a warning of arrears in respect of your contribution order. The arrears now stand at £ . The court is now considering revoking [your] [the assisted person's] legal aid certificate. You are entitled to explain to the court why you have fallen into arrears, and to invite the court not to revoke the legal aid certificate.

If you wish to do this, YOU MUST RETURN THIS FORM TO THIS COURT WITHIN SEVEN DAYS OF RECEIPT; otherwise the legal aid certificate may be revoked.

A copy of this form has been sent to [your advocate] [the assisted person and his advocate].

Signed

Date

I have fallen into arrears because

Signed

Date

DETERMINATION OF MEANS

Means of husband or wife

1. Where a husband or wife fails to provide information as to his financial resources in response to the request of the relevant authority, the authority may make an estimate of the likely resources of the husband or wife on the basis of any information which is available.

Reduction of means

2. Where it appears to the relevant authority that the person concerned has with intent to reduce his means, whether for the purpose of reducing his liability to pay a contribution towards legal aid or otherwise -

- (a) directly or indirectly deprived himself of any resources; or
- (b) converted any part of his resources into resources which under these Regulations are to be wholly or partly disregarded, 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 which he has so converted shall be treated as part of his resources or as not so converted as the case may be.

Disposable income

3. (1) The income which the person concerned receives during the contribution period shall be taken to be his income for the purposes of this Schedule.

(2) The income received during the contribution period may be estimated on the basis of the income received by the person concerned during the 3 months before the beginning of the contribution period.

4. (1) Where the person concerned receives the profits from any trade, business or gainful occupation other than employment at a wage or salary, the profit which accrues during the contribution period shall be taken to be his income for the purposes of this Schedule.

(2) The income received during the contribution period may be estimated on the basis of the profits made during the last accounting period for which accounts have been prepared.

5. In computing disposable income, the following benefits shall be disregarded -

- (a) attendance allowance;
- (b) disability living allowance;
- (c) constant attendance allowance paid as an increase to a disablement pension.

6. In computing disposable income there shall be deducted -

- (a) the total amount of any tax payable on that income;
- (b) the total amount of any contributions payable under the Social Security Acts 1975 to 1991;
- (c) reasonable expenses of travelling to and from the place of employment;

- (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 Act 1975 or to a personal pension scheme within the meaning of the Social Security Act 1986; and
- (e) reasonable expenses in respect of the making of reasonable provision for the care of any dependent child living with the person concerned because of that person's absence from home by reason of employment.

7. (1) In computing disposable income there shall be a deduction in respect 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.

(2) For the purposes of this paragraph, "rent" includes -

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

(3) In this paragraph, 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 are incurred except 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 or persons.

8. Where the person concerned is not a householder, there shall be a deduction in respect of the costs of his living accommodation of such an amount as is reasonable in the circumstances.

9. (1) Subject to sub-paragraph (2), in computing disposable income, there shall be a deduction at the rate of -

- (a) £65 a week in respect of the maintenance of the wife or husband of the person concerned, where the spouses are living together;
- (b) £29 a week in respect of the maintenance of any dependent child and of any dependent relative of the person concerned where such persons are members of his household.

(2) The relevant authority may reduce any rate provided by virtue of sub-paragraph (1) by taking into account the income and other resources of the dependent child or other dependent to such extent as appears to it to be just and equitable.

(3) In ascertaining whether a child is a dependent child or whether a person is a dependent relative for the purposes of this paragraph, regard shall be had to their income and other resources.

10. Where the person concerned is making and, throughout such period as the relevant authority may consider to be adequate, has regularly made bona fide payments for the maintenance of -

- (a) a spouse who is living apart;
- (b) a former spouse;
- (c) a child; or

(d) a relative;

who is not 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.

11. In computing disposable income, there shall be a deduction in respect of any sum or sums payable by the person concerned under an order made by, or arising from any conviction before any court in the Island in any proceedings other than those in respect of which the legal aid certificate was granted.

12. Where the person concerned is required to, or may reasonably, provide for any other matter, the relevant authority may make an allowance of such amount as he considers to be reasonable in the circumstances of the case.

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

Disposable capital

14. (1) In computing the capital of the person concerned, there shall be included the amount or value of every resource of a capital nature belonging to him on the date of the assessment.

(2) In so far as any resource of a capital nature does not consist of money, its amount or value shall be taken to be -

(a) the amount which that resource would realise if sold in the open market, or if there is only a restricted market for the resource, the amount which it would realise in that market, after deduction of any expenses incurred in the sale, or

(b) if such an amount cannot be ascertained, an amount which appears to the relevant authority to be reasonable.

15. In computing the capital of the person concerned, there shall be disregarded -

(a) any savings of mobility allowance is disability living allowance which the person concerned intends to use in connection with mobility or his disability;

(b) for a period exceeding 12 months from the date of receipt, any arrears of -

(i) attendance allowance, mobility allowance or disability living allowance; or

(ii) supplementary benefit or family income supplement.

16. Except where it is reasonable in the circumstances so to do, no sum shall be included in the amount of the capital of the person concerned in respect of the value of the assets of any business owned in whole or in part by him.

17. Save in exceptional circumstances, no sum shall be included in the amount of the capital of the person concerned in respect of -

(a) household furniture and effects of the main or only residence occupied by him;

(b) articles of personal clothing; and

(c) tools and equipment of his trade.

18. In computing the amount of the capital of the person concerned, the value of any interest in the main or only residence in which he resides shall be wholly disregarded.

19. In computing the capital of the person concerned, there may also be disregarded such an amount of capital (if any) as the relevant authority decides to disregard taking into account the nature of the capital or any other circumstances of the case.

CONTRIBUTIONS : FINANCIAL LIMITS

Prescribed limits

1. (1) Subject to sub-paragraph (2), a contribution is payable by the assisted person or contributor where -
 - (a) his average weekly disposable income exceeds £191; or
 - (b) his disposal capital exceeds £10,000.

(2) The assisted person's means shall be treated for the purpose of this Schedule as not exceeding the limits specified in sub-paragraph (1) at any time when he is in receipt of Isle of Man income-related benefits.

Contributions payable by instalments

2. The weekly instalment of contribution payable by the assisted person or contributor, where his disposable income falls within a range specified in the first column of the following table, is the amount specified in relation to that range in the second column -

<i>Average weekly disposable income</i>	<i>Weekly contribution</i>
Exceeding £191 but not exceeding £195	£33
Exceeding £195 but not exceeding £199	£34
Exceeding £199 but not exceeding £203	£35
Exceeding £203 but not exceeding £207	£36
Exceeding £207 but not exceeding £211	£37
Exceeding £211 but not exceeding £215	£38

The weekly instalment of contribution shall be increased by £1 for each £4 or part of £4 by which average weekly disposable income exceeds £215.

Contributions payable in one sum

3. The contribution payable by the assisted person or contributor in one sum shall be such an amount as is equal to the amount by which his disposable capital exceeds £10,000.

Limits of alteration of means for purpose of variation

4. The limits of alteration of means for the purpose of regulation 16(b) are -
 - (a) an increase in disposable income not exceeding £750 a year;
 - (b) a decrease in disposable income not exceeding £300 a year;
 - (c) an increase in disposable capital which would produce an additional income not exceeding £750 a year.

Made 6th day of September 1993

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision for the grant of legal aid in criminal proceedings under Part II of the Legal Aid Act 1986 as amended by the Legal Aid (Amendment) Act 1992, which introduces a requirement for contributions to be paid by an assisted person (or his parents, in the case of an assisted person under 16) towards the expense of legal aid. The Regulations replace the Criminal Legal Aid Regulations 1991, and make provision for the assessment of contributions, the making, variation and revocation of contribution orders and the revocation of a legal aid certificate for non-payment of contributions.

DETERMINATION OF MEANS FOR PURPOSES OF LEGAL AID

(Reg. 11(2) + Sched. 2, Crim Legal Aid Regs. 1993)

DISPOSABLE INCOME

Net Weekly Income From Employment Or Self Employment p.w.	Applicant	£	
	Spouse	£	p.w.
State Benefits (Excl. Supp. Benefit, F.I.S., Attendance, Disability & Constant Attendance Allowances)	Applicant	£	p.w.
	Spouse	£	p.w.
Income From Letting Property p.w.	Applicant	£	
	Spouse	£	p.w.
Any Other Income	Applicant	£	p.w.
	Spouse	£	p.w.
	<u>TOTAL (1)</u>	£	p.w.
Spouse Allowance (£65.00)		£	p.w.
Dependant Relative (e.g. Children) Allowance (£29.00 per person) p.w.		£	
Dependant Maintenance Allowance p.w.		£	
Pension Contributions Allowance p.w.		£	
Housing (Rent, Rates, Mortgage or Lodging) Allowance p.w.		£	
Travel (To & From Work) Allowance		£	p.w.
Other Expenses (e.g. Court Orders re Fines, Child Minder, Play School etc.) p.w.		£	
	<u>TOTAL (2)</u>	£	p.w.
TOTAL (1) LESS TOTAL (2) =	<u>TOTAL (3)</u>	£	

N.B. If Total (3) exceeds £191.00, see Schedule 3, Criminal Legal Aid Regulations 1993 for Weekly Contribution.

DISPOSABLE CAPITAL

Property -

Net Value, i.e. Selling Price Less Amount of Outstanding Mortgage, Of Any Property Owned Other Than Only Or Main Dwelling.

Applicant £
Spouse £

Savings

Applicant £
Spouse £

Articles of Value

Applicant £
Spouse £ _____

TOTAL (4)

N.B. Total (4) Less £10,000 = £ Which is Amount Of Contribution Payable In
One Sum.