
STATUTORY INSTRUMENTS

1991 No. 2112

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

**The Legal Aid in Family Proceedings
(Remuneration) (Amendment) Regulations 1991**

Made - - - - *19th September 1991*
23rd September
Laid before Parliament *1991*
Coming into force - - *14th October 1991*

The Lord Chancellor, in exercise of the powers conferred on him by sections 2(5), (7), 34 and 43 of the Legal Aid Act 1988(1) and all other powers enabling him in that behalf, having had regard to the matters specified in section 34(9) and consulted the General Council of the Bar and the Law Society, and with the consent of the Treasury, hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Legal Aid in Family Proceedings (Remuneration) (Amendment) Regulations 1991 and shall come into force on 14th October 1991.

(2) In these Regulations, a regulation referred to by number means the regulation so numbered in the Legal Aid in Family Proceedings (Remuneration) Regulations 1991(2).

2. Regulation 1(2) shall be amended—

(a) by substituting, for the words “and remuneration payable in respect of work done before that date shall be determined as if these Regulations had not been made”, the words “and remuneration payable in respect of work done in proceedings commenced before that date shall be determined as if these Regulations and the Legal Aid in Criminal and Care Proceedings (Costs) (Amendment) (No. 3) Regulations 1991(3) had not been made”;

(b) by inserting after that paragraph the following proviso—

“Provided that regulation 3 of, and Schedule 1 to, these Regulations shall apply to remuneration payable in respect of work done on or after 14th October 1991 in relation to care proceedings (within the meaning of section 27 of the Legal Aid Act

(1) 1988 c. 34; section 43 is an interpretation provision and is cited because of the meaning assigned to the word “regulations”; sections 2(7), 34 and 43 were amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraphs 60, 61(2) and 63(2) (5).

(2) S.I.1991/2038.

(3) S.I. 1991/2037.

1988(4) as if those proceedings were care proceedings within the meaning of these Regulations.”.

3. For regulation 1(3), there shall be substituted the following—

“(3) For the purposes of determining remuneration payable in respect of work done before 14th October 1991 in relation to proceedings of a kind described in paragraph (a) of the definition of “prescribed family proceedings”, Schedule 2 to the Rules shall have effect as if that Schedule were substituted for Schedule 2(a) to these Regulations and Schedule 2 (as so substituted) shall have effect as it had effect during the year in which the work in question was done.”.

4. Regulation 2(1) shall be amended by substituting, for the definition of “prescribed family proceedings”, the following—

““prescribed family proceedings” means—

- (a) proceedings commenced before 14th October 1991 with respect to which rules made under section 50 of the Matrimonial Causes Act 1973(5) applied immediately before the date of the coming into force of these Regulations;
- (b) proceedings commenced on or after 14th October 1991 to which those rules would have applied if they had continued in force on and after that date;
- (c) proceedings under the Children Act 1989(6), excluding care proceedings;”.

Dated 16th September 1991

Mackay of Clashfern, C.

We consent,

*Thomas Sackville
Nicholas Baker*

Two of the Lords Commissioners of Her Majesty’s Treasury

Dated 19th September 1991

(4) Section 27 is repealed by the Children Act 1989 (c. 41), Schedule 15 subject to the transitional provisions contained in article 3 of the Legal Aid Act 1988 (Children Act 1989) Order 1991 (S.I. 1991/1924).

(5) 1973 c. 18; section 50 was amended by the Domicile and Matrimonial Proceedings Act 1973 (c. 45), section 6(2), by the Inheritance (Provision for Family and Dependants) Act 1975 (c. 63), Schedule, by the Children Act 1975 (c. 72), Schedule 3 paragraph 79, by the Administration of Justice Act 1977 (c. 38), Schedule 5 Part VI, by the Domestic Proceedings and Magistrates’ Courts Act 1978 (c. 22), Schedule 2 paragraph 40, by the Matrimonial Homes Act 1983 (c. 19), Schedule 2, by the County Courts Act 1984 (c. 28), section 148, Schedule 2 Part V paragraph 44, by the Family Law Act 1986 (c. 55), section 64, Schedule 1 paragraph 15 and by the Courts and Legal Services Act 1990 (c. 41), section 125(3), Schedule 18, paragraph 3.

(6) 1989 c. 41.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Legal Aid in Family Proceedings (Remuneration) Regulations 1991 (the principal Regulations) so as to—

- (a) ensure that the procedure for determining payment in care proceedings begun before 14th October continues without change but that the rates payable for work done on or after that date will be those provided under the principal Regulations (regulation 2);
- (b) prevent the rates contained in Schedule 2(a) to the principal Regulations applying to all work, including work done in earlier years (which was remunerated under the Rules according to different rates) and to provide for work to be remunerated according to the rates which applied at the time when the work was done (regulation 3); and
- (c) substitute a new definition of “prescribed family proceedings” since the definition in the principal Regulations was too wide and referred to a statutory provision which will lapse before the principal Regulations come into force (regulation 4).