



THE LEGAL AID ACT 1986

THE LEGAL AID (MATRIMONIAL PROCEEDINGS) REGULATIONS 1997

Approved by Tynwald

15th April 1997

Coming into operation

1st May 1997

In exercise of the powers conferred on the Legal Aid Committee by sections 2 and 16 of, and paragraph 2 of Schedule 2 to, the Legal Aid Act 1986(a), and of all other enabling powers, the following Regulations are hereby made:—

Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Legal Aid (Matrimonial Proceedings) Regulations 1997 and, subject to section 24 of the Act, shall come into operation on the 1st May 1997.

(2) In these Regulations —

"the Act" means the Legal Aid Act 1986;

"ancillary relief" means any relief under Part II of the Judicature (Matrimonial Causes) Act 1976(b);

"matrimonial proceedings" means proceedings for a decree of divorce or judicial separation;

Restriction on grant of legal aid

2. Subject to regulation 3, legal aid may be given in matrimonial proceedings only where —

(a) the cause is defended or legal aid is sought for the purpose of defending the cause; or

(a) 1986 c.23 (b) 1976 c.14

- (b) the petition is directed to be heard in open court; or
- (c) by reason of physical or mental incapacity, it is impracticable for the applicant to proceed without legal aid.

Exceptions

3. Notwithstanding regulation 2, legal aid may be given for the purpose of making or opposing an application —

- (a) for an injunction;
- (b) for ancillary relief (but not for the purpose only of inserting a prayer for ancillary relief in the petition);
- (c) for an order under section 9 of the Family Law Act 1991(c) (orders relating to minors) (but not for the purpose only of making an application for such an order where there is no reason to believe that the application will be opposed);

or for the purpose of making or opposing any other application, or satisfying the court on any other matter, which raises a substantial question for determination by the court.

Remuneration

4. (1) Subject to the following provisions of this regulation, the sums payable under paragraph 1 of Schedule 2 to the Act to an advocate in connection with an application in matrimonial proceedings for any ancillary relief or for an order specified in regulation 3(c) shall be those specified in Schedule 1, together with any disbursements actually and reasonably incurred.

(2) On the application of an advocate concerned, the Chief Registrar may direct that paragraph (1) shall not apply to any particular application.

(3) Where in any matrimonial proceedings each party makes an application referred to in paragraph (1), the Chief Registrar may direct that the sums specified in the Schedule shall be varied in such manner as appears to him to be just.

(4) An advocate who is dissatisfied with the refusal of the Chief Registrar to make a direction under paragraph (2), or with a direction of the Chief Registrar under paragraph (3), may make a written representation to the Legal Aid Committee, who may either confirm the decision of the Chief Registrar or itself direct that paragraph (1) shall not apply to the application.

Revocations

5. The Regulations specified in Schedule 2 are revoked.

Transitional provision

6. Nothing in these Regulations applies in relation to legal aid given pursuant to a legal aid certificate granted before the coming in to operation of these Regulations.

Regulation 4(1).

SCHEDULE 1

FIXED COSTS

| | <i>Advocate for party making application</i> | <i>Advocate for other party</i> |
|--|--|-------------------------------------|
| Where an application for ancillary relief and (where appropriate) an order specified in regulation 3(c) is not opposed | £320 | £245 |
| In any other case | £510 | £345 |
| In addition (in any case), where the matrimonial home is ordered to be transferred to one of the parties | £155 | £80 |

Regulation 5.

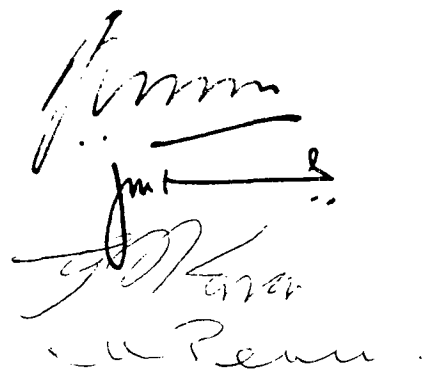
SCHEDULE 2

REGULATIONS REVOKED

| <i>Reference</i> | <i>Title</i> |
|------------------|---|
| GC 222/86 | The Legal Aid (Matrimonial Proceedings) Regulations 1986. |
| GC 324/89 | The Legal Aid (Matrimonial Proceedings) (Amendment) Regulations 1989. |
| GC 380/91 | The Legal Aid (Matrimonial Proceedings) (Amendment) Regulations 1991. |
| SD 239/93 | The Legal Aid (Matrimonial Proceedings) (Amendment) Regulations 1993. |

MADE 13th March

1997

Handwritten signatures of the members of the Legal Aid Committee. The signatures are in black ink and appear to be: J. M. M., J. M., J. M., and J. M.

Members of the Legal Aid Committee

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations restrict the grant of legal aid for divorce or judicial separation to cases where the petition is defended or directed to be heard in open court, or one of the parties is incapacitated. Legal aid may however be granted for applications for an injunction or maintenance or orders relating to children. Fixed scales of costs are prescribed for such applications. They revoke and replace the Legal Aid (Matrimonial Proceedings) Regulations 1986 as amended.