



THE LEGAL AID ACT 1986

THE CIVIL LEGAL AID ORDER 2008

*Approved by Tynwald* *16<sup>th</sup> April 2008*

*Coming into operation* *1<sup>st</sup> May 2008*

In exercise of the powers conferred on the Treasury by paragraph 1 of Schedule 2 to the Legal Aid Act 1986<sup>1</sup>, and of all other enabling powers, and after consultation with the Deemsters, the following Order is hereby made: -

**Citation, commencement and interpretation**

1. (1) This Order may be cited as the Civil Legal Aid Order 2008 and, subject to paragraph 2 of Schedule 2 to the Act, shall come into operation on the 1<sup>st</sup> May 2008
- (2) In this Order “the Act” means the Legal Aid Act 1986;
- (3) References in this Order to work done or time spent for or in connection with any proceedings include references to work done by the advocate acting on behalf of the assisted person in giving notice of appeal or in applying for a case to be stated and in matters preliminary thereto, being work done within the ordinary time for giving notice or making an application.

**Advocates’ fees and expenses - general**

2. (1) Subject to paragraphs (2) and (3) and to article 4, the scales of costs payable in respect of legal aid under Part I of the Act shall be -
  - (a) such sums as appear to the Chief Registrar to be fair remuneration based on the appropriate hourly rates for work actually and reasonably done and time reasonably spent for or in connection with the proceedings in question;
  - (b) travelling expenses at the rates payable to members of the Isle of Man Civil Service engaged on Government business.
- (2) Without prejudice to the generality of paragraph (1)(a), the Chief Registrar may, as respects the whole or part of the work done, determine such remuneration -

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<sup>1</sup> 1986 c.23  
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- (a) based on a rate or rates higher than those referred to in paragraph (1)(a) where he is satisfied that it is required in the exceptional circumstances of the case;
- (b) based on a rate or rates lower than those so referred to where he is satisfied that the advocate has failed to carry out the work with reasonable competence and dispatch.
- (3) In paragraph (1)(a) “the appropriate hourly rates” means -
  - (a) in the case of domestic proceedings or proceedings at an inquest, the rates from time to time prescribed under section 19(3) of the Act in relation to summary trial or committal proceedings before a court of summary jurisdiction;
  - (b) in any other case, proceedings, the rates from time to time so prescribed for any proceedings other than those mentioned in sub-paragraph (a) (apart from proceedings mentioned in item 2 or 13 of Schedule 3 to the Act).
- (4) This article does not apply where article 3(1) applies.

### **Matrimonial proceedings**

3. (1) Subject to paragraphs (2) and (3) and to article 4, the scales of costs payable to an advocate in connection with an application in matrimonial proceedings for -

- (a) any ancillary relief;
- (b) an injunction; or
- (c) an order under section 11 of the Children and Young Persons Act 2001<sup>2</sup> (orders relating to minors);

shall be those specified in Schedule 1.

(2) The Chief Registrar may direct that paragraph (1) shall not apply to any particular application where he is satisfied that it is inappropriate in the exceptional circumstances of the case.

(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) In this article -

“ancillary relief” means the relief under Part II of the Matrimonial Proceedings Act 2003<sup>3</sup>, other than the variation of an order under the said Part II;

“matrimonial proceedings” means proceedings for a decree of divorce or judicial separation.

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<sup>2</sup> 2001 c.20

<sup>3</sup> 2003 c.7

### Appeal to the Legal Aid Certifying Officer

4. (1) An advocate who is dissatisfied with -
- (a) a determination or direction of the Chief Registrar under article 2 or 3, or
  - (b) the refusal of the Chief Registrar to make a direction under article 3(2),

may make written representations to the Legal Aid Certifying Officer.

- (2) On receiving representations under paragraph (1) the Legal Aid Certifying Officer may either confirm the decision of the Chief Registrar or -
- (a) in the case of a direction under article 3(2), direct that article 3(1) shall apply to the application in question, or
  - (b) in any other case, allow such costs in respect of the work done or time spent for or in connection with the proceedings as appear to it to represent fair remuneration according to the work actually and reasonably done and time reasonably spent.

### Revocation and savings

5. (1) The order specified in Schedule 2 is revoked to the extent specified in column 3 of that Schedule.

(2) Nothing in this Order applies in relation to legal aid given pursuant to a legal aid certificate granted before the coming into operation of this Order.

(3) Nothing in this Order applies to Privy Council proceedings (within the meaning of the Legal Aid (General) Regulations 1997<sup>4</sup>

Article 3(1).

#### SCHEDULE 1

#### FIXED COSTS IN MATRIMONIAL PROCEEDINGS

	<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 article 3(1)(c) is not opposed	£400	£300
In any other case	£750	£545
In addition (in any case), where the matrimonial home is ordered to be transferred to one of the parties.	£180	£100

Article 5(1).

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<sup>4</sup> SD 144/97

SCHEDULE 2

INSTRUMENTS REVOKED.

<i>Reference</i>	<i>Title</i>	<i>Extent of revocation</i>
SD 208/99	The Civil Legal Aid Order 1999	The entire order

MADE 4<sup>th</sup> March 2008



(signed by)

Minister for the Treasury

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EXPLANATORY NOTE

*(This note is not part of the Order.)*

This Order revokes and replaces the Civil Legal Aid Order 1999 and is intended to simplify the appellate procedure in relation to fixed costs.