

**1977 No. 1293****LEGAL AID AND ADVICE, ENGLAND****The Legal Aid (General) (Amendment) Regulations 1977**

<i>Made - - - -</i>	<i>27th July 1977</i>
<i>Laid before Parliament</i>	<i>5th August 1977</i>
<i>Coming into Operation</i>	<i>1st October 1977</i>

The Lord Chancellor, in exercise of the powers conferred on him by sections 9 and 20 of the Legal Aid Act 1974(a), hereby makes the following Regulations:—

**1.**—(1) These Regulations may be cited as the Legal Aid (General) (Amendment) Regulations 1977 and shall come into operation on 1st October 1977.

(2) The Interpretation Act 1889(b) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(3) In these Regulations a regulation referred to by number means a regulation so numbered in the Legal Aid (General) Regulations 1971(c), as amended (d).

**2.** In regulation 1(3), for the definition of “matrimonial proceedings” there shall be substituted the following:—

“ “matrimonial proceedings” means—

- (a) any proceedings with respect to which rules may be made under section 50 of the Matrimonial Causes Act 1973(e), or
- (b) any proceedings in a county court under section 17 of the Married Women’s Property Act 1882(f) or section 1 of the Matrimonial Homes Act 1967(g); or
- (c) any proceedings under the Domestic Violence and Matrimonial Proceedings Act 1976(h);”.

**3.** In regulation 3(8), after the words “in English” there shall be inserted the words “or in French”.

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(a) 1974 c. 4.

(b) 1889 c. 63.

(c) S.I. 1971/62 (1971 I, p. 75).

(d) The relevant amending instruments are S.I. 1971/1877, 1972/1749, 1976/628 (1971 III p. 5114; 1972 III, p. 5076; 1976 I, p. 1775).

(e) 1973 c. 18.

(f) 1882 c. 75.

(g) 1967 c. 75.

(h) 1976 c. 50.

4. In regulation 5, the following paragraph shall be substituted for paragraph (1):—

“(1) An application for a certificate in respect of—

- (a) matrimonial proceedings, or
- (b) authorised summary proceedings,

shall be considered by the secretary, who, after having had regard to the determination made by the Commission of the disposable income and disposable capital of the applicant and the maximum contribution payable by him or the terms of any undertaking lodged by him under regulation 3(4), may (save in the circumstances mentioned in paragraph (11)) approve the application on behalf of the appropriate committee; and in every case in which he does not approve the application he shall refer it to the committee for their consideration and approval or refusal.”

5. In regulation 6, the following shall be added at the end of paragraph (2):—

“or (d) proceedings in the Court of Justice of the European Communities on a reference to that Court for a preliminary ruling.”

6. In regulation 15, the following shall be substituted for paragraphs (2) and (3):—

“(2) Where it appears to an assisted person’s solicitor that the proper conduct of the proceedings so requires, counsel may be instructed; but, unless authority has been given in the certificate, a Queen’s Counsel or more than one counsel shall not be instructed without the authority of the appropriate area committee.

(3) Every set of papers delivered to counsel instructed by virtue of paragraph (2) shall include a copy of the certificate and shall be endorsed in the manner set out in Schedule 3 with such variations as circumstances may require; and no fees shall be marked thereon.”;

and in paragraph (7), for “paragraph (1) or (3)” there shall be substituted “paragraph (1) or (2)”.

7. In regulation 18, the following shall be substituted for paragraph (10)(c) and (d):—

“(c) the first £2,500 of any money, or the value of any property, recovered or preserved by virtue of—

- (i) an order made, or deemed to be made, under the provisions of section 23(1)(c), 23(2), 24, 27(6)(c), or 35 of the Matrimonial Causes Act 1973; or
- (ii) an order made, or deemed to be made, under the provisions of sections 2 and 6 of the Inheritance (Provision for Family and Dependents) Act 1975(a) or any provision repealed by that Act; or
- (iii) an order made, or deemed to be made, after 30th September 1977 under section 17 of the Married Women’s Property Act 1882; or
- (iv) an agreement made after 30th September 1977 which has the same effect as an order made, or deemed to be made, under any of the provisions specified in this sub-paragraph; or

(d) where the certificate was issued before 3rd May 1976, any money or property, of whatever amount or value, recovered or preserved by virtue of an order made, or deemed to be made, under any of the provisions specified in sub-paragraph (c)(i) or (ii) before 1st August 1976 or which, if made on or after that date, gives effect to a settlement entered into before that date;”.

8. In regulation 22, for the figure of £75 specified in paragraph (2)(a) there shall be substituted the figure of £200.

Dated 27th July 1977.

*Elwyn-Jones, C.*

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#### EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations further amend the Legal Aid (General) Regulations 1971 so as to:—

- (i) allow an application for legal aid to be in French if the applicant is resident outside the United Kingdom and unable to be there while his application is being considered;
- (ii) extend the delegated power of the local secretary to approve applications for legal aid in matrimonial proceedings;
- (iii) require the authority of the area committee before a legal aid certificate can extend to proceedings on a reference to the Court of Justice of the European Communities;
- (iv) require a solicitor to apply to the area committee for authority to instruct either a Queen's Counsel alone or (as at present) more than one counsel;
- (v) extend the benefit of the £2,500 exemption from the statutory charge under regulation 18(10)(c) to money or property comprised in an order under section 17 of the Married Women's Property Act 1882 and to certain agreements made between the parties to proceedings; and
- (vi) raise the limit of the power of an area committee to assess a bill under regulation 22(2)(a) from £75 to £200.

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