

1989 No. 549

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Civil Legal Aid (Matrimonial Proceedings) Regulations 1989

Made - - - - - 23rd March 1989

Coming into force 1st April 1989

The Lord Chancellor, in exercise of the powers conferred on him by sections 14(2) and 43 of the Legal Aid Act 1988(a), hereby makes the following Regulations of which a draft has, in accordance with section 36(3)(b) of that Act, been laid before and approved by resolution of each House of Parliament:-

Citation, commencement and revocation

1.—(1) These regulations may be cited as the Civil Legal Aid (Matrimonial Proceedings) Regulations 1989 and shall come into force on 1st April 1989.

(2) The Legal Aid (Matrimonial Proceedings) Regulations 1977(b) are hereby revoked.

Proceedings for divorce or judicial separation

2. After paragraph 5 of Part II of Schedule 2 to the Legal Aid Act 1988 there shall be added the following new paragraph:

“5A. Proceedings for a decree of divorce or judicial separation unless the cause is defended, or the petition is directed to be heard in open court, or it is not practicable by reason of physical or mental incapacity for the applicant to proceed without representation; except that representation shall be available for the purpose of making or opposing an application—

- (a) for an injunction;
- (b) for ancillary relief, excluding representation for the purpose only of inserting a prayer for ancillary relief in the petition;
- (c) for an order relating to the custody of (or access to) a child, or the education or care or supervision of a child, excluding representation for the purpose only of making such an application where there is no reason to believe that the application will be opposed;
- (d) for an order declaring that the court is satisfied as to arrangements for the welfare of the children of the family, excluding representation for the purpose only of making such an application where there is no reason to believe that the application will be opposed; or
- (e) 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.”

(a) 1988 c.34.
(b) S.I. 1977/447.

Dated 23rd March 1989

Mackay of Clashfern, C.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations replace the Legal Aid (Matrimonial Proceedings) Regulations 1977 (S.I. 1977/447). Regulation 2 adds a new paragraph to Part II of Schedule 2 to the Legal Aid Act 1988, excluding (with certain exceptions) from the scope of Part IV of the Act, representation in proceedings for divorce or judicial separation.

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