

2001 No. 830

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Legal Aid in Family Proceedings (Remuneration)
(Amendment) Regulations 2001**

<i>Made</i> - - - -	<i>8th March 2001</i>
<i>Laid before Parliament</i>	<i>9th March 2001</i>
<i>Coming into force</i>	<i>2nd April 2001</i>

The Lord Chancellor, in exercise of the powers conferred upon him by sections 34 and 43 of the Legal Aid Act 1988(a), having had regard to the matters specified in section 34(9) of that Act and having consulted the General Council of the Bar and the Law Society, and with the consent of the Treasury, makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Legal Aid in Family Proceedings (Remuneration) (Amendment) Regulations 2001 and shall come into force on 2nd April 2001.

(2) In these Regulations, any reference to a regulation or Schedule by number alone is a reference to the regulation or Schedule so numbered in the Legal Aid in Family Proceedings (Remuneration) Regulations 1991(b).

Transitional provision

2. These Regulations shall apply to work carried out on or after 2nd April 2001 and in relation to work carried out before that date the Legal Aid in Family Proceedings (Remuneration) Regulations 1991 shall have effect as if these Regulations had not been made.

Amendments to the Legal Aid in Family Proceedings (Remuneration) Regulations 1991

3.—(1) In regulation 2(1), in the definition of “the relevant authority”, for “taxing officer” there shall be substituted “costs officer” and for “taxation” (in both places where it occurs) there shall be substituted “detailed assessment”.

(2) In regulation 2(2), the word “and” at the end of sub-paragraph (a) shall be deleted and after that sub-paragraph there shall be inserted—

“(aa) the expressions “detailed assessment”, “costs judge” and “costs officer” shall have the meanings given to them in Part 43 of the Civil Procedure Rules 1998(c); and”.

(a) 1988 c. 34. Sections 34 and 43 were amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18 paragraphs 60 and 63 and the Family Law Act 1996 (c. 27), Schedule 8 paragraph 44, Sections 34 and 43 are repealed (together with other provisions) by Part I of Schedule 15 to the Access to Justice Act 1999 (c. 22), which was brought into force on 1st April 2000 by the Access to Justice Act 1999 (Commencement No. 3, Transitional Provisions and Savings) Order 2000 (S.I. 2000/774), but subject to savings. Section 43 is an interpretation provision and is cited because of the meaning given to “regulations”.

(b) S.I. 1991/2038; the relevant amending instruments are S.I. 1996/650 and 1555 and 1997/2394.

(c) S.I. 1998/3132.

4.—(1) In regulation 3(4)(bb)—

- (a) after “Schedule 2, shall” there shall be inserted “, subject to paragraph (4A),”;
- (b) “for franchisees” shall be deleted;
- (c) for the words from “(other than the Board)” to “Legal Aid Act 1988” there shall be substituted “who is authorised to carry out work in family proceedings by a contract with the Legal Services Commission”; and
- (d) for “work done by franchisees” there shall be substituted “such work”.

(2) In regulation 3(4)(c)(iii), the words after “circumstances of the case” shall be deleted.

(3) After regulation 3(4) there shall be inserted—

“(4A) Except in relation to prescribed family proceedings in a magistrates’ court, where paragraph (4)(bb) applies and the relevant work is done by a member of a relevant panel the relevant authority shall, subject to paragraph (4B), allow whichever is the higher of—

- (a) an amount 15% higher than the amount in Schedule 1A or (as the case may be) 2A(a) which he would have allowed but for this paragraph and paragraph (4)(c); and
- (b) if he decides to award such an amount, a larger amount than that specified in column 2 or column 3, as the case may be, of Parts I, II, III and V of Schedule 1A or (as the case may be) 2A(a), awarded in accordance with paragraph (4)(c).

(4B) Paragraph (4A) shall not apply in relation to any item if, but for that paragraph, the relevant authority would, in accordance with regulation 3(4)(c), have allowed a lower amount for that item than the one in Part I, II, III or V of Schedule 1A or 2A(a).”.

(4) In regulation 3(8) for “R.S.C., Order 62” there shall be substituted “Parts 43 to 48 of the Civil Procedure Rules 1998”.

(5) After regulation 3(8) there shall be inserted—

“(9) In this regulation—

(a) “relevant panel” means—

- (i) the Solicitors’ Family Law Association Accredited Specialist Panel; or
- (ii) in relation to work done under a certificate which includes proceedings relating to children, the Law Society’s Children Act Panel; and

- (b) “proceedings relating to children” means proceedings in which the welfare of children is determined, including, without limitation, proceedings under the Children Act 1989(a) or under the inherent jurisdiction of the High Court in relation to children.”.

5. In Part V of Schedules 1 and 2—

- (a) for the heading “TAXATION AND REVIEW OF TAXATION” there shall be substituted “DETAILED ASSESSMENT AND APPEAL IN RELATION TO DETAILED ASSESSMENT”;
- (b) for “taxation”, wherever it occurs, there shall be substituted “detailed assessment”; and
- (c) in item 19 of Schedule 1 and item 20 of Schedule 2, for “Review by district judge or judge” there shall be substituted “Appeal to costs judge, district judge or judge”.

6.—(1) For Parts I to III of Schedule 1A there shall be substituted—

(a) 1989 c. 41.

“SCHEDULE 1A
CARE PROCEEDINGS

PART I

PREPARATION

<i>Column 1</i>	<i>Column 2 High Court</i>	<i>Column 3 County court or magistrates' court</i>
ITEM		
1. Writing routine letters	£4.70 per item	£4.10 per item
2. Receiving routine letters	£2.35 per item	£2.05 per item
3. Routine telephone calls	£4.70 per item	£4.10 per item
4. All other preparation work including any work which was reasonably done arising out of or incidental to the proceedings, interviews with client, witnesses, and other parties; obtaining evidence; preparation and consideration of, and dealing with, documents, negotiations and notices; dealing with letters written and received and telephone calls which are not routine	£73.15 per hour (£77.85 per hour for a fee-earner whose office is situated in the Legal Services Commission's London Region)	£64.90 per hour (£68.20 per hour for a fee-earner whose office is situated in the Legal Services Commission's London Region)
5. Travelling and waiting	£35.75 per hour	£32.45 per hour

PART II

CONFERENCES WITH COUNSEL

<i>Column 1</i>	<i>Column 2 High Court</i>	<i>Column 3 County court or magistrates' court</i>
6. Attending with counsel in conference	£41.25 per hour	£36.30 per hour
7. Travelling and waiting	£35.75 per hour	£32.45 per hour

PART III
ATTENDANCES

<i>Column 1</i>	<i>Column 2 High Court</i>	<i>Column 3 County court or magistrates' court</i>
8. Attending with counsel at the trial or hearing of any cause or the hearing of any summons or other application at court, or other appointment	£41.25 per hour	£36.30 per hour
9. Attending without counsel at the trial or hearing of any cause or the hearing of any summons or other application at court, or other appointment	£73.15 per hour (£77.85 per hour for a fee-earner whose office is situated in the Legal Services Commission's London Region)	£64.90 per hour (£68.20 per hour for a fee-earner whose office is situated in the Legal Services Commission's London Region)
10. Travelling and waiting	£35.75 per hour	£32.45 per hour

”

(2) For Part V of Schedule 1A there shall be substituted—

“PART V

DETAILED ASSESSMENT AND APPEAL IN RELATION TO DETAILED ASSESSMENT

(HIGH COURT AND COUNTY COURT ONLY)

<i>Column 1</i>	<i>Column 2 High Court</i>	<i>Column 3 County court</i>
17. Preparing the bill (where allowable) and completing the detailed assessment (excluding preparing for and attending the hearing of the detailed assessment)	£35.75–£99.85 per hour	£35.75–£56.95 per hour
18. Preparing for and attending the hearing of the detailed assessment (including travelling and waiting)	Discretionary	Discretionary
19. Appeal to costs judge, district judge or judge (including preparation)	Discretionary	Discretionary

”

7.—(1) For Schedule 2A there shall be substituted—

“SCHEDULE 2A
PRESCRIBED FAMILY PROCEEDINGS

(a) High Court and county court proceedings

PART I

PREPARATION

<i>Column 1</i>	<i>Column 2 High Court</i>	<i>Column 3 County court</i>
1. Writing routine letters	£7.05 per item	£6.15 per item
2. Receiving routine letters	£3.50 per item	£3.10 per item
3. Routine telephone calls	£7.05 per item	£6.15 per item
4. All other preparation work including any work which was reasonably done arising out of or incidental to the proceedings, interviews with client, witnesses, and other parties; obtaining evidence; preparation and consideration of, and dealing with, documents, negotiations and notices; dealing with letters written and received and telephone calls which are not routine	Where proceedings were conducted in the divorce registry or in another court on the South Eastern Circuit at the time when the relevant work was done: £78.40 per hour All other circuits: £73.05 per hour	Where proceedings were conducted in the divorce registry or in another court on the South Eastern Circuit at the time when the relevant work was done: £68.50 per hour All other circuits: £64.80 per hour
6. Travelling and waiting time in connection with the above matters	£35.75 per hour	£32.45 per hour

PART II

CONFERENCES WITH COUNSEL

<i>Column 1</i>	<i>Column 2 High Court</i>	<i>Column 3 County court</i>
7. Attending counsel in conference	£41.25 per hour	£36.30 per hour
8. Travelling and waiting	£35.75 per hour	£32.45 per hour

PART III
ATTENDANCES

<i>Column 1</i>	<i>Column 2 High Court</i>	<i>Column 3 County court</i>
9. Attending with counsel at the trial or hearing of any cause or hearing of any summons or other application at court, or other appointment	£41.25 per hour	£36.30 per hour
10. Attending without counsel at the trial or hearings of any cause or the hearing of any summons or other application at court, or other appointment	Where proceedings were conducted in the divorce registry or in another court on the South Eastern Circuit at the time when the relevant work was done: £78.40 per hour All other circuits: £73.05 per hour	Where proceedings were conducted in the divorce registry or in another court on the South Eastern Circuit at the time when the relevant work was done: £68.50 per hour All other circuits: £64.80 per hour
11. Travelling and waiting	£35.75 per hour	£32.45 per hour

PART V

DETAILED ASSESSMENT AND APPEAL IN RELATION TO DETAILED ASSESSMENT

<i>Column 1</i>	<i>Column 2 High Court</i>	<i>Column 3 County court</i>
18. Preparing the bill (where allowable) and completing the detailed assessment (excluding preparing for and attending the hearing of the detailed assessment)	£35.70–£99.85 per hour	£35.70–£56.95 per hour
19. Preparing for and attending the hearing of the detailed assessment (including travelling and waiting)	Discretionary	Discretionary
20. Appeal to costs judge, district judge or judge (including preparation)	Discretionary	Discretionary

(b) Magistrates' court proceedings

Preparation	£48.95 per hour—(£52.25 per hour for a fee-earner whose office is situated in the Legal Services Commission's London Region)
Advocacy	£61.90 per hour
Attendance at court where counsel assigned	£33.30 per hour
Travelling and waiting	£27.50 per hour
Routine letters written and telephone calls	£3.80 per item—(£4.00 per item for a fee-earner whose office is situated in the Legal Services Commission's London Region)".

Signed by authority of the Lord Chancellor

Dated 8th March 2001

David Lock
Parliamentary Secretary,
Lord Chancellor's Department

We consent,

Dated 8th March 2001

Greg Pope
Jim Dowd
Two of the Lords Commissioners
of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which amend the Legal Aid in Family Proceedings (Remuneration) Regulations 1991 (S.I. 1991/2038), introduce new rates of remuneration for representation in family proceedings which is still being provided by suppliers with a family contract with the Legal Services Commission, under Part IV of the Legal Aid Act 1988. Part IV of the 1988 Act was repealed by the Access to Justice Act 1999, but is saved in relation to transitional cases by the Access to Justice Act 1999 (Commencement No.3, Transitional Provisions and Savings) Order 2000 (S.I. 2000/774). The rates also apply, by virtue of the Community Legal Service (Funding) Order 2000 (S.I. 2000/627), to representation in family proceedings provided under contract as part of the Community Legal Service, under Part I of the Access to Justice Act 1999.

These Regulations also—

- (a) introduce an uplift of 15% in cases where the supplier is a member of the Solicitors' Family Law Association Panel or, in relation to proceedings relating to children, the Law Society's Children Act Panel; and
- (b) make some amendments reflecting changes in terminology brought about by the Civil Procedure Rules 1998.

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