
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the remuneration of legal representatives of persons granted legal aid in family proceedings.

The rates applicable in care proceedings are in Schedule 1 (regulation 3(2)(a)).

The rates applicable in matrimonial proceedings and non-care proceedings under the Children Act 1989 are in Schedule 2. These consist of the same rates previously applicable in matrimonial proceedings in the High Court and county courts. All magistrates' court family proceedings (other than care proceedings) are paid at the same rates as in criminal proceedings, as previously authorised by regulation 104 of the Civil Legal Aid (General) Regulations 1989 which applied the rates from the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989 (S.I.1989/343) (regulation 3(2)(b)).

Family proceedings not falling within the above categories (such as domestic violence injunctions) continue to be taxed in accordance with rules of court (regulation 3(1)(c)).

The appropriate rate is that applicable to the proceedings for which the certificate was originally issued save that where a legal aid certificate in family proceedings which do not attract either of the prescribed rates is extended to cover proceedings that attract one or other of those rates, then that rate is applicable for the whole of the proceedings covered by that certificate. Where the certificate is extended to cover proceedings covered by the Schedule 2 rate as well as care proceedings, the Schedule 2 rate prevails (regulation 3(3)).

The appropriate rate can be summarised as follows:

Proceedings (for which the certificate was issued)	Rate
Care (proceedings under Parts IV and V of the Children Act)	Schedule 1
Matrimonial and non-care Children Act (High Court and county courts)	Schedule 2
Family proceedings other than care (magistrates courts)	Schedule 2
Other family proceedings (High Court and county courts) where no proceedings attracting a rate are added	Rules of Court
Other family proceedings (High Court and county courts) where care proceedings are added	Schedule 1
Other family proceedings (High Court and county courts) where matrimonial and non-care proceedings are added (whether or not care proceedings are added)	Schedule 2

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

The mechanism for assessment or taxation of the fees continues to be in accordance with the relevant parts of the rules of court, the Civil Legal Aid (General) Regulations 1989 and the Matrimonial Causes (Costs) Rules 1988, as they take effect through the Family Proceedings (Costs) Rules 1991 (regulation 3(1)). The parts of the 1988 Rules relating purely to legal aid are replaced by provisions in these Regulations (regulations 3(2)(d) and (e) and (4) to (8)).