
STATUTORY INSTRUMENTS

1997 No. 1078

**LEGAL AID AND ADVICE,
ENGLAND AND WALES**

The Legal Aid (Mediation in Family Matters) Regulations 1997

Made - - - - *24th March 1997*
Laid before Parliament *25th March 1997*
Coming into force - - *1st May 1997*

The Lord Chancellor, in exercise of the powers conferred on him by sections 34 and 43 of the Legal Aid Act 1988(1) and with the consent of the Treasury, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Legal Aid (Mediation in Family Matters) Regulations 1997 and shall come into force on 1st May 1997.

(2) In these Regulations, unless the context otherwise requires—

“Area Director” has the meaning assigned to it in the Civil Legal Aid (General) Regulations 1989(2);

“client” means a person seeking or receiving mediation;

“disability working allowance” means a disability working allowance under the Social Security Contributions and Benefits Act 1992(3);

“family credit” means family credit under the Social Security Contributions and Benefits Act 1992;

“income-based jobseeker’s allowance” has the meaning given by section 1(4) of the Jobseekers Act 1995(4), but excludes any sum treated as payable by way of a jobseeker’s allowance by virtue of section 26 of that Act;

“income support” means income support under the Social Security Contributions and Benefits Act 1992.

(1) 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. Section 43 is an interpretation provision and is cited because of the meaning assigned to the word “regulations”.
(2) S.I.1989/339; the relevant amending instrument is S.I. 1994/1822.
(3) 1992 c. 4.
(4) 1995 c. 18.

Applications

2.—(1) An application for mediation under Part IIIA of the Legal Aid Act 1988 shall be made in accordance with the provisions of these Regulations to the mediator from whom mediation is sought.

(2) The application under paragraph (1) shall be made by the client in person.

(3) Where a client makes an application under paragraph (1), he shall provide the mediator with the information necessary to enable the mediator to determine:—

- (a) his disposable capital;
- (b) where appropriate, whether he is in receipt of income support, income-based jobseeker's allowance, family credit or disability working allowance, and
- (c) where he is not in receipt of income support, income-based jobseeker's allowance, family credit or disability working allowance, his disposable income.

(4) The information required by this regulation shall be furnished on a form approved by the Board.

Eligibility for mediation to which regulation 2 applies

3. A client is eligible for mediation under regulation 2 if his weekly disposable income does not exceed £166, and his disposable capital does not exceed £3,000.

Assessment of disposable income and disposal capital

4.—(1) Subject to paragraphs (4) and (5), a mediator to whom an application under regulation 2 is made shall assess the disposable income and disposable capital of the client and, where appropriate, of any person whose financial resources may be treated as those of the client.

(2) The assessment under paragraph (1) shall be made in accordance with Schedule 2 to the Legal Advice and Assistance Regulations 1989(5) with the modifications set out in paragraph (3).

(3) For the purposes of these Regulations, Schedule 2 to the Legal Advice and Assistance Regulations 1989 shall be modified as follows:—

- (a) any references to a solicitor shall be references to a mediator;
- (b) “client” shall have the meaning assigned to it by regulation 1(2) of these Regulations;
- (c) any references to advice and assistance shall be references to mediation;
- (d) any references to a contribution shall be omitted;
- (e) in paragraph 11 of Schedule 2 “for all purposes” shall be omitted.

(4) Where the mediator is satisfied that any of the persons whose disposable incomes are to be assessed under paragraph (1) is directly or indirectly in receipt of income support, income-based jobseeker's allowance, family credit or disability working allowance, he shall take that person's disposable income as not exceeding the sum for the time being specified in regulation 3.

(5) Where, in the case of an application to which regulation 2 applies, the mediator is satisfied that any of the persons whose disposable capital is to be assessed under paragraph (1) is directly or indirectly in receipt of income support or income-based jobseeker's allowance, he shall take that person's disposable capital as not exceeding the capital sum specified in regulation 3.

(6) The mediator shall not provide mediation to any person until the form referred to in regulation 2(4) has been signed by the client and until the mediator has assessed disposable income and disposable capital in accordance with paragraphs (1) and (2).

(5) S.I. 1989/550; the relevant amending instruments are S.I. 1990/486, 1993/790 and 1996/435.

Disclosure of information

5. Notwithstanding the relationship between or rights of a mediator and client or any privilege arising out of such relationship, the mediator shall not be precluded from disclosing to any person authorised by the Board to request it, any information which relates to mediation provided to a client or former client of his where that client is or was a legally assisted person which is requested for the purpose of enabling the Board to discharge its functions under the Legal Aid Act 1988.

Dated 21st March 1997

Mackay of Clashfern, C.

We consent,

Dated 24th March 1997

Bowen Wells
Gyles Brandreth
Two of the Lords Commissioners of Her
Majesty's Treasury

Status: *This is the original version (as it was originally made). UK
Statutory Instruments are not carried in their revised form on this site.*

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations regulate applications for mediation in family matters, including setting out the eligibility criteria and dealing with connected matters.