

1972 No. 1749

LEGAL AID AND ADVICE, ENGLAND

The Legal Aid (General) (Amendment) Regulations 1972

Made - - - 16th November 1972

Laid before Parliament 24th November 1972

Coming into Operation 18th December 1972

The Lord Chancellor, in exercise of the powers conferred on him by sections 1, 2, 3, 4, 5, 6 and 12 of, and the Third Schedule to, the Legal Aid and Advice Act 1949(a), as amended by the Legal Aid Act 1960(b), and with the concurrence of the Treasury, hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Legal Aid (General) (Amendment) Regulations 1972 and shall come into operation on 18th December 1972.

(2) The Interpretation Act 1889(c) 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(d), as amended(e), and a paragraph referred to by number means a paragraph so numbered in Schedule 2 to those Regulations.

2. In the Arrangement of Regulations at the beginning of the Legal Aid (General) Regulations 1971 after “26(A). The National Industrial Relations Court.” there shall be inserted “26(B). The Commons Commissioners.”

3.—(1) In regulation 5(1) (which relates to the consideration of applications for certificates by a secretary) for the words “proceedings by a petitioner for divorce or judicial separation or authorised summary proceedings” there shall be substituted—

“(a) proceedings by a petitioner for divorce, judicial separation or nullity on the grounds of incapacity or wilful refusal to consummate a marriage, or

(b) proceedings by a respondent limited to applications under section 6 of the Divorce Reform Act 1969(f) or within the meaning of rule 2(1) of the Matrimonial Causes (Costs) Rules 1971(g), or,

(c) authorised summary proceedings.”

(2) In regulation 12(9) (which relates to issuing notices of discharge or revocation) after the words “and shall” in the second place where they occur there shall be inserted the words “except in a case where a certificate has been discharged under regulation 12(2)(c)(i).”

(a) 1949 c. 51.

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

(f) 1969 c. 55.

(b) 1960 c. 28.

(e) S.I. 1971/1877 (1971 III, p. 5114).

(g) S.I. 1971/987 (1971 II, p. 2869).

(c) 1889 c. 63.

4. The following regulation shall be inserted after regulation 26(A):—

“The Commons Commissioners

26(B)—(1) In this regulation the expression “a Commissioner” means a Commons Commissioner appointed under section 17(1) of the Commons Registration Act 1965(a).

(2) Except in so far as otherwise provided by this regulation, these Regulations shall apply to applications for legal aid for proceedings before a Commissioner and to the conduct of all proceedings before him for which a certificate is granted in like manner as they apply to proceedings for legal aid for, and the conduct of, proceedings in any court.

(3) Where any power to do any act or exercise any discretion is conferred on a court it shall, in relation to proceedings before a Commissioner, be exercised by him.

(4) The provisions of Schedule 3 to the Act shall apply to proceedings before a Commissioner as they apply to proceedings in a county court.”

5. In paragraph 6 (which relates to the availability of legal aid in respect of a claim) for the expressions “£125” and “£325” (wherever they occur) there shall be substituted the expressions “£250” and “£400”.

6. In paragraph 8 (which relates to computing capital) for the expressions “£75”, “£50”, “£25” and “£375” there shall be substituted respectively the expressions “£125”, “£80”, “£40” and “£400”.

Dated 13th November 1972.

Hailsham of St. Marylebone, C.

We concur,
Dated 16th November 1972.

*V. H. Goodhew,
Hugh Rossi,*
Two of the Lords Commissioners
of Her Majesty’s Treasury.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Legal Aid (General) Regulations 1971. The principal changes are as follows:—

- (a) the secretary of an appropriate committee may consider and approve (but not refuse) an application by a petitioner in respect of nullity on the grounds of incapacity or wilful refusal to consummate a marriage and by a respondent in respect of proceedings ancillary to a divorce;

- (b) the Regulations are applied to legal aid proceedings before the Commons Commissioners;
- (c) legal aid in respect of a claim is available to those with disposable capital of £250 (instead of £125) and disposable incomes of £400 (instead of £325);
- (d) in computing disposable capital of applicants for legal aid in respect of a claim—
 - (i) allowances for dependants are £125 for the first, £80 for the second and £40 for any further dependants, instead of £75, £50 and £25 respectively, and
 - (ii) the maximum allowance on account of low income shall be £400 instead of £375.

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