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STATUTORY INSTRUMENTS

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**2013 No. 104**

**The Civil Legal Aid (Merits Criteria) Regulations 2013**

**PART 5**

**APPLICATION OF THE MERITS CRITERIA**

**Application of the merits criteria in cases described in more than one paragraph of Part 1 of Schedule 1 to the Act**

**47.** Where more than one set of merits criteria could be applied to a case because it is described in more than one paragraph of Part 1 of Schedule 1 to the Act (civil legal services), the Director must apply the merits criteria which are, in the opinion of the Director, most appropriate in all the circumstances of the case.

**Application of the merits criteria in exceptional inquest cases**

**48.** The Director must apply the criterion in regulation 45 (criterion for determinations for other legal services) for the purposes of a determination under—

- (a) section 10(2)(b) of the Act, to the extent to that it relates to services which consist of advocacy in proceedings at an inquest under the Coroners Act 1988(1) into the death of a member of the family of the individual who has made an application for civil legal services; or
- (b) section 10(4)(c) of the Act.

**Application of the merits criteria in cases which are exceptional cases excluded from Part 1 of Schedule 1 to the Act**

**49.—(1)** The Director must apply the merits criteria in paragraph (2) for the purpose of making a determination under section 10(2)(b) of the Act (exceptional cases) in relation to civil legal services in any matter which would fall within a description in Part 1 of Schedule 1 to the Act, but for an exclusion in Part 2 (excluded services) or Part 3 (advocacy: exclusions and exceptions) of that Schedule.

(2) The criteria referred to in paragraph (1) are the merits criteria which would have applied in relation to that matter had it not been subject to that exclusion.

**Application of the merits criteria in cases which are exceptional cases other than by virtue of the exclusions in Part 2 or 3 of Schedule 1 to the Act**

**50.—(1)** To the extent that regulation 49 does not apply, the Director must apply the merits criteria in paragraph (2) for the purpose of making a determination under section 10(2)(b) of the Act (exceptional cases) in relation to any matter in which civil legal services are not otherwise available because they are not described in Part 1 of Schedule 1 to the Act.

(2) The criteria referred to in paragraph (1) are the merits criteria which appear to the Director to be most appropriate in all the circumstances of the case.