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STATUTORY INSTRUMENTS

2013 No. 3195

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

**The Civil Legal Aid (Merits Criteria)
(Amendment) (No. 3) Regulations 2013**

Approved by both Houses of Parliament

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| <i>Made</i> | - - - - | <i>18th December 2013</i> |
| <i>Laid before Parliament</i> | | <i>18th December 2013</i> |
| <i>Coming into force</i> | - - | <i>1st January 2014</i> |

The Lord Chancellor makes the following Regulations⁽¹⁾ in exercise of the powers conferred by sections 11(1)(b) and 41(1)(a) and (b), (2)(b) and (3)(a) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012⁽²⁾ (“the Act”).

In making these Regulations, in accordance with section 11(2) to (5) of the Act, the Lord Chancellor—

- (a) has considered the circumstances in which it is appropriate to make civil legal services available under Part 1 of the Act and, in particular, the extent to which the criteria ought to reflect the factors in section 11(3);
- (b) has sought to secure that, in cases in which more than one form of civil legal service could be provided for an individual, the individual qualifies under Part 1 of the Act for the form of service which in all the circumstances is most appropriate having regard to the criteria; and
- (c) is satisfied that the criteria reflect the principle that, in many disputes, mediation and other forms of dispute resolution are more appropriate than legal proceedings.

In accordance with section 41(8) of the Act, the Lord Chancellor considers that it is desirable for the regulations to come into force without delay for the reasons given in the statement laid before Parliament with these Regulations.

(1) Section 42(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) provides that in Part 1 of that Act “regulations” means Regulations made by the Lord Chancellor.
(2) 2012 c.10.

Citation and commencement

1. These Regulations may be cited as the Civil Legal Aid (Merits Criteria) (Amendment) (No. 3) Regulations 2013 and come into force on 1st January 2014.

Amendment of the Civil Legal Aid (Merits Criteria) Regulations 2013

2.—(1) The Civil Legal Aid (Merits Criteria) Regulations 2013⁽³⁾ are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in the appropriate place insert—

““Dublin III claim” means any matter described in paragraph 19(1) of Part 1 of Schedule 1 to the Act (judicial review) in relation to a transfer decision within the meaning of Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person⁽⁴⁾”; and

(b) in the definition of “public law claim” after “paragraph 19 (judicial review)” insert “other than a Dublin III claim”.

(3) After regulation 56 (criteria for determinations for full representation in relation to public law claims) insert—

“Criteria for determinations in relation to Dublin III claims

56A.—(1) For the purposes of a determination for any form of civil legal services in relation to a Dublin III claim, the general merits criteria do not apply and paragraph (2) applies.

(2) An individual may qualify for civil legal services only if the Director is satisfied that the individual’s case has a tangible prospect of success.”.

Signed by authority of the Lord Chancellor

18th December 2013

Shailesh Vara
Parliamentary Under Secretary of State
Ministry of Justice

(3) [S.I. 2013/104](#) as amended by [S.I. 2013/772](#).

(4) OJ , 29.6.2013 L 180/31.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (“Dublin III”) makes provision for determining which Member State of the European Union is responsible for examining an asylum application made in one of the Member States by a third-country national or stateless person. Article 27 of Dublin III makes provision ensuring that legal aid is provided in relation to challenges to a transfer decision within the meaning of Dublin III, subject to a means and merits test.

These Regulations amend the Civil Legal Aid (Merits Criteria) Regulations 2013 ([S.I.2013/104](#)) to provide specific merits criteria for a judicial review of a transfer decision within the meaning of Dublin III. In accordance with Article 27(6) of Dublin III, when determining an application for any form of civil legal services under Dublin III the Director must be satisfied that the applicant’s case has a tangible prospect of success. An impact assessment has not been produced for this instrument as it has no impact on businesses and civil society organisations.