
STATUTORY INSTRUMENTS

2013 No. 611

The Civil Legal Aid (Costs) Regulations 2013

PART 1

INTERPRETATION AND GENERAL

Citation and commencement

1. These Regulations may be cited as the Civil Legal Aid (Costs) Regulations 2013 and come into force on 1st April 2013.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“certificate” means a certificate issued under regulations made under section 12 of the Act⁽¹⁾;

“costs order” means an order that a party pay all or part of the costs of proceedings;

“cost protection” means the limit on costs awarded against a legally aided party in relevant civil proceedings, set out in section 26(1) and (2) of the Act;

“court” includes any tribunal having the power to award costs in favour of, or against, a party;

“CPR” means the Civil Procedure Rules 1998, and a reference to a Part or rule, prefixed by “CPR”, means the Part or rule so numbered in the CPR⁽²⁾;

“emergency representation” has the same meaning as in regulations made under section 12 of the Act;

“family enactment” has the same meaning as in paragraph 12(9) of Part 1 of Schedule 1 to the Act;

“family relationship” and “matter arising out of a family relationship” have the same meaning as in paragraphs 12(7) and (8) of Part 1 of Schedule 1 to the Act⁽³⁾;

“family proceedings” means—

(a) a matter described in paragraph 12 (victims of domestic violence and family matters) or paragraph 13 (protection of children and family matters) of Part 1 of Schedule 1 to the Act; or

(b) a matter arising out of a family relationship in respect of which the Director has made an exceptional case determination under section 10 of the Act and which is under—

(i) a family enactment; or

(1) The Civil Legal Aid (Procedure) Regulations 2012 (SI 2012/3098).

(2) SI 1998/3132; relevant amending instruments are, as regards Part 21, 2007/2204, 2008/2178, 2010/621, and, as regards Part 22, 2001/1769, 2001/4015, 2004/3419.

(3) The Civil Legal Aid (Family Relationship) Regulations 2012 (SI 2012/2684), made under paragraph 12(8)(b) of Part 1 of Schedule 1 to the Act, make provision about when matters arise out of a family relationship for the purpose of paragraph 12.

(ii) the Trusts of Land and Appointment of Trustees Act 1996⁽⁴⁾;

“full costs” means, where a section 26(1) costs order is made against a legally aided party, the amount of costs which that party would, but for section 26(1) of the Act, have been ordered to pay;

“legally aided party” means an individual or legal person⁽⁵⁾ to whom, in relation to relevant proceedings, civil legal services have been made available under Part 1 of the Act;

“legally aided party’s costs order” and “legally aided party’s costs agreement” mean, respectively, an order and an agreement that another party to relevant proceedings pay all or part of the costs of a legally aided party;

“litigation friend” has the same meaning as in CPR Part 21;

“non-legally aided party” means a party to proceedings to whom no civil legal services have been made available in a form for which a certificate would be issued under regulations made under section 12 of the Act, or a party to whom such services have been made available under a determination which has been revoked;

“partner”, in relation to a party to proceedings, means—

- (a) a party’s spouse or civil partner, from whom the party is not separated due to a breakdown in the relationship which is likely to be permanent;
- (b) a person with whom the party lives as a couple; or
- (c) a person with whom the party ordinarily lives as a couple, from whom the party is not separated due to a breakdown in the relationship which is likely to be permanent;

“provider” means a person who provides civil legal services under Part 1 of the Act;

“receiving party” means a non-legally aided party in favour of whom a costs order is made;

“relevant proceedings” means relevant civil proceedings (or contemplated proceedings) before a court;

“revocation” means the withdrawal of a determination in circumstances in which the Director has exercised the power to revoke the determination under regulations made under section 12 of the Act (and “revoked” has the equivalent meaning);

“rules of court”, in relation to a tribunal, means rules or regulations made by the authority having power to make rules or regulations regulating the practice and procedure of that tribunal and, in relation to any court, includes practice directions;

“section 26(1) costs order” means a costs order against a legally aided party where cost protection applies;

“statement of truth” has the same meaning as in CPR Part 22; and

“the arrangements” means arrangements made by the Lord Chancellor under section 2 of the Act.

(2) A reference in these Regulations to a form of civil legal services has the same meaning as set out in Part 2 of the Civil Legal Aid (Merits Criteria) Regulations 2013⁽⁶⁾.

Effect of these Regulations

3. Where one or more parties are receiving, or have received, civil legal services in relation to proceedings, nothing in these Regulations is to be construed as—

(4) 1996 c. 47.

(5) Paragraph 7 of Schedule 3 to the Act (legal aid for legal persons) provides that in section 26 references to an individual include a legal person to whom legal services are made available under Part 1 of the Act in accordance with Schedule 3 or regulations made under Schedule 3.

(6) SI 2013/104.

- (a) requiring a court to make a costs order where it would not otherwise have made a costs order; or
- (b) affecting the court's power to make a wasted costs order against a legal representative.

Delegation

4. A function of the Lord Chancellor under these Regulations may be exercised by a person authorised for that purpose by the Lord Chancellor, or by an employee of that person⁽⁷⁾.

(7) Section 6 of the Act (authorisations) makes provision for authorisations given for the purpose of section 5 of the Act (delegation) or regulations under that section.