

2015 No. 1678

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Civil and Criminal Legal Aid (Amendment) (No.2)
Regulations 2015**

Made - - - - - *9th September 2015*

Laid before Parliament *11th September 2015*

Coming into force in accordance with regulation 1

The Lord Chancellor makes the following Regulations(a) in exercise of the powers conferred by sections 2(3), 12(2) and (3), 23(1), (2) and (8), 25(3), 27(6)(c) and (e), 30(2) and 41(1), (2) and (3)(b) and (c) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Civil and Criminal Legal Aid (Amendment) (No.2) Regulations 2015.

(2) These Regulations come into force for the purposes of—

- (a) regulations 3, 5, 6, and 8 to 10 on 5th October 2015, and
- (b) regulations 2, 4 and 7 on 1st November 2015.

(3) In these Regulations, “the Criminal Remuneration Regulations” means the Criminal Legal Aid (Remuneration) Regulations 2013(c).

Amendments to the Civil Legal Aid (Procedure) Regulations 2012

2.—(1) The Civil Legal Aid (Procedure) Regulations 2012(d) are amended as follows.

(2) In regulation 2 (interpretation)(e), in the definition beginning “2010 Standard Civil Contract”, for “and “2014 Standard Civil Contract”” substitute “, “2014 Standard Civil Contract” and “2015 Standard Civil Contract””.

(3) In each of the following, for “or 2014 Standard Civil Contract” substitute “, 2014 Standard Civil Contract or 2015 Standard Civil Contract”—

- (a) regulation 20 (interpretation)(f) in the definition of “relevant category”;
- (b) paragraph (1)(c)(g) of regulation 23 (the application);

(a) Section 42(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) provides that in Part 1 of that Act “prescribed” means prescribed by regulations and “regulations” means regulations made by the Lord Chancellor.
(b) 2012 c. 10.
(c) S.I. 2013/435.
(d) S.I. 2012/3098.
(e) Amended by S.I. 2014/1824. There is another amendment not relevant to these Regulations.
(f) Amended by S.I. 2014/1824.
(g) Amended by S.I. 2014/1824.

- (c) paragraph (4)(c)(a) of regulation 31 (the application), and
- (d) paragraph (1) of regulation 67 (the application)(b).

Amendment to the Criminal Legal Aid (General) Regulations 2013

3. In regulation 6(1)(a) of the Criminal Legal Aid (General) Regulations 2013 (transfer of documents)(c) omit “, committed or transferred”.

Amendments to the Civil Legal Aid (Remuneration) Regulations 2013

4.—(1) The Civil Legal Aid (Remuneration) Regulations 2013(d) are amended as follows.

(2) In regulation 2(1) (interpretation)(e)—

- (a) in the definition of “Category Definition”, for “or the 2014 Standard Civil Contract” substitute “, the 2014 Standard Civil Contract or the 2015 Standard Civil Contract”;
- (b) in the definition of “the relevant contract”, for “or the 2014 Standard Civil Contract (Welfare Benefits)” substitute “, the 2014 Standard Civil Contract (Welfare Benefits) or the 2015 Standard Civil Contract”, and
- (c) in the definition beginning “the 2010 Standard Civil Contract”, for “and “the 2014 Standard Civil Contract (Welfare Benefits)”” substitute “, “the 2014 Standard Civil Contract (Welfare Benefits)” and “the 2015 Standard Civil Contract””.

(3) In paragraph (3)(j) of regulation 5A (remuneration for civil legal services: judicial review)(f), for “or the 2014 Standard Civil Contract (Welfare Benefits)” substitute “, the 2014 Standard Civil Contract, the 2014 Standard Civil Contract (Welfare Benefits) or the 2015 Standard Civil Contract”.

Amendments to the Criminal Remuneration Regulations

5.—(1) The Criminal Remuneration Regulations are amended as follows.

(2) In each of the following omit “committed or”—

- (a) the entry for regulation 10 in the Table of Contents;
- (b) regulation 5(2) (claims for fees and disbursements by litigators – Crown Court);
- (c) the heading of regulation 10;
- (d) regulation 10(1) (cases sent for trial at the Crown Court);
- (e) regulation 14(1) (interim payment of disbursements);
- (f) sub-paragraphs (4)(a) and (7)(a) of paragraph 2 (application) and paragraphs 6(1) (scope of Part 3)(g) and 9(1) (scope of Part 4)(h) of Schedule 1 (advocates’ graduated fee scheme), and
- (g) paragraphs 4(1) (scope)(i) and 10(1) (scope of Part 3)(j) of Schedule 2 (litigators’ graduated fee scheme).

(3) In regulations 10(1) and 14(1) omit “or transferred”.

-
- (a) Amended by S.I. 2014/1824.
 - (b) Amended by S.I. 2014/1824.
 - (c) S.I. 2013/9, to which there are amendments not relevant to these Regulations.
 - (d) S.I. 2013/422.
 - (e) Amended by S.I. 2014/7, 2014/1824 and 2015/325 and by Part 3 of S.I. 2015/1369, coming into force 11th January 2016. There are other amendments not relevant to these Regulations.
 - (f) Inserted by S.I. 2014/607, substituted by S.I. 2015/898 and amended by Part 3 of S.I. 2015/1369, coming into force 11th January 2016.
 - (g) Substituted by S.I. 2014/2422.
 - (h) Substituted by S.I. 2014/2422.
 - (i) Substituted by S.I. 2014/2422 and amended by Part 3 of S.I. 2015/1369, coming into force 11th January 2016.
 - (j) Substituted by S.I. 2014/2422.

(4) In regulation 17A(2) (interim payment of litigators' fees)(a), for sub-paragraph (a) substitute—

“(a) after the first hearing at which the assisted person enters a plea of not guilty;”.

(5) In regulation 20(2)(b) (staged payments in long Crown Court proceedings) omit “committal, or” and “or transfer”.

(6) In paragraph 1(1) of Schedules 1 and 2 (interpretation)(b), in the definition of “cracked trial”—

- (a) in paragraph (a), for “a plea and case management hearing takes place” substitute “the assisted person enters a plea of not guilty to one or more counts at the first hearing at which he or she enters a plea”;
- (b) in sub-paragraph (a)(ii)(aa), for “plea and case management hearing” substitute “first hearing at which he or she entered a plea”;
- (c) in sub-paragraph (a)(ii)(bb), for “plea and case management hearing” substitute “first hearing at which the assisted person entered a plea”, and
- (d) in paragraph (b), for “plea and case management hearing taking place” substitute “hearing at which the assisted person enters a plea”.

(7) In Schedules 1 and 2, in paragraph 1—

- (a) in sub-paragraph (3) omit “committal or”, and
- (b) in sub-paragraph (6) for “committal” substitute “sending”.

(8) In each of the following, for “the plea and case management hearing”, wherever it appears, substitute “the first hearing at which the assisted person enters a plea”—

- (a) paragraphs 2(11) and 25 (identity of instructed advocate) of Schedule 1, and
- (b) paragraphs 2(5) (application) and 23(2) (warrant for arrest)(c) of Schedule 2.

(9) In paragraph 22 of Schedule 1 and paragraph 21 of Schedule 2—

- (a) in the heading, omit “sent or transferred”, and
- (b) for sub-paragraph (1) substitute—

“(1) This paragraph applies to proceedings which are sent for trial to the Crown Court.”.

(10) In each of the following omit “, section 6 of the Criminal Justice Act 1987(d) or paragraph 5 of Schedule 6 to the Criminal Justice Act 1991(e),”—

- (a) paragraph 22(7) of Schedule 1, and
- (b) paragraph 21(4) of Schedule 2.

(11) In Schedule 1—

- (a) in paragraph 1(1)—
 - (i) after the definition of “cracked trial” insert—

““excluded hearing” means—

 - (a) the first hearing at which the assisted person enters a plea;
 - (b) any hearing which forms part of the main hearing, or
 - (c) any hearing for which a fee is payable under a provision of this Schedule other than paragraph 12(2);”, and

(a) Inserted by S.I. 2014/2422 and amended by Part 3 of S.I. 2015/1369, coming into force 11th January 2016.

(b) Paragraph 1(1) of Schedule 1 was amended by S.I. 2015/882. Paragraph 1(1) of Schedule 2 was amended by Part 3 of S.I. 2015/1369, coming into force 11th January 2016.

(c) Amended by Part 3 of S.I. 2015/1369, coming into force 11th January 2016.

(d) 1987 c. 38. Repealed by Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), subject to savings specified in article 5 of S.I. 2012/1320 and articles 3 and 4 of S.I. 2012/2574 and 2013/1103.

(e) 1991 c. 53. Repealed by Part 4 of Schedule 37 to the Criminal Justice Act 2003, subject to savings specified in article 5 of S.I. 2012/1320 and articles 3 and 4 of S.I. 2012/2574 and 2013/1103.

- (ii) in the definition of “standard appearance”—
 - (aa) for “which do not form part of the main hearing” substitute “unless it is an excluded hearing”;
 - (bb) in paragraph (a) omit “, except the first plea and case management hearing”;
 - (cc) after paragraph (b) insert—
 - “(ba) a pre-trial preparation hearing;
 - (bb) a case management hearing;”, and
 - (dd) in paragraph (d), for “a plea and case management hearing, a pre-trial review” substitute “the first hearing at which the assisted person enters a plea”;
- (b) in paragraph 2—
 - (i) omit sub-paragraph (9), and
 - (ii) for sub-paragraph (10) substitute—

“(10) Where, at any time after proceedings are sent for trial to the Crown Court they are—

 - (a) discontinued by a notice served under section 23A of the Prosecution of Offences Act 1985 (discontinuance of proceedings after accused has been sent for trial)(a), or
 - (b) dismissed pursuant to paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 (applications for dismissal)(b),

the provisions of paragraph 22 apply.”;
- (c) in paragraph 12 (fees for standard appearances)—
 - (i) in the heading omit “plea and case management hearings and”;
 - (ii) in sub-paragraph (1)(a)—
 - (aa) for “plea and case management hearing” substitute “hearing at which the assisted person enters a plea”, and
 - (bb) omit “or pre-trial review”;
 - (iii) in sub-paragraph (2) omit “plea and case management hearing or”, and
 - (iv) omit sub-paragraph (3);
- (d) in paragraph 19(3) (fees for conferences and views), for “the plea and case management hearing”, wherever it appears, substitute “the first hearing at which the assisted person entered a plea”;
- (e) in paragraph 22 (discontinuance or dismissal of sent proceedings)—
 - (i) omit sub-paragraph (4);
 - (ii) in sub-paragraph (5), for “a hearing to which this sub-paragraph applies” substitute “or before the first hearing at which the assisted person enters a plea”, and
 - (iii) in sub-paragraph (6) omit “, section 6 of the Criminal Justice Act 1987 or paragraph 5 of Schedule 6 to the Criminal Justice Act 1991 (applications for dismissal).”;
- (f) in the table following paragraph 24 (fixed fees) omit the second entry (paper plea and case management), and
- (g) in paragraph 25(11)(a)(ii) omit “plea and case management”.
- (12) In Schedule 2—
 - (a) in paragraph 2—

(a) 1985 c. 23. Section 23A was inserted by paragraph 64 of Schedule 8 to the Crime and Disorder Act 1998 (c. 37) and amended by paragraph 57(7)(b) of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003.

(b) 1998 c. 37. Amended by paragraph 20(3)(a)(i) and (ii) of Schedule 3, paragraph 73 of Part 4 of Schedule 36 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 and S.I. 2004/2035.

- (i) omit sub-paragraph (2), and
 - (ii) for sub-paragraph (3) substitute—
 - “(3) Where, at any time after proceedings are sent for trial to the Crown Court they are—
 - (a) discontinued by a notice served under section 23A of the Prosecution of Offences Act 1985 (discontinuance of proceedings after accused has been sent for trial), or
 - (b) dismissed pursuant to paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 (applications for dismissal),
 the provisions of paragraphs 21 and 22 apply.”;
 - (b) in the table following paragraph 13 (retrials and transfers)(a) for “Up to and including plea and case management hearing transfer”, wherever it appears, substitute “Transfer at or before the first hearing at which the assisted person enters a plea”, and
 - (c) in paragraph 21 (discontinuance or dismissal of sent proceedings)(b)—
 - (i) in sub-paragraph (4), for “1988” substitute “1998”;
 - (ii) omit sub-paragraph (5), and
 - (iii) in sub-paragraph (6), for “a hearing to which this paragraph applies” substitute “or before the first hearing at which the assisted person enters a plea”.
- (13) In paragraph 5 (representation in the magistrates’ court) of Schedule 4 (rates payable for the claims specified in Regulation 8)(c)—
- (a) in the table following sub-paragraph (2) omit each of the entries for “Category 3”;
 - (b) in sub-paragraph (3)—
 - (i) in paragraphs (a)(iii) and (iv) and (b)(iii) and (iv), omit “(other than committal proceedings)”;
 - (ii) at the end of paragraph (c)(vi), omit “and”, and
 - (iii) omit paragraph (d), and
 - (c) omit sub-paragraph (5).

Amendment to the Criminal Legal Aid (Contribution Orders) Regulations 2013

6. In regulation 12(3) of the Criminal Legal Aid (Contribution Orders) Regulations 2013 (determination by the Director of liability to make a payment out of income)(d) for sub-paragraphs (a) to (c) substitute—
- “(a) the individual has been sent to the Crown Court, or
 - (b) the bill of indictment has been preferred.”.

Amendments to the Civil Legal Aid (Statutory Charge) Regulations 2013

7. In regulation 2(1) of the Civil Legal Aid (Statutory Charge) Regulations 2013 (interpretation)(e), in the definition of “legal aid only costs”—
- (a) in sub-paragraph (e) omit “or”, and
 - (b) at the end of sub-paragraph (f) insert—
 - “or
 - (g) the 2015 Standard Civil Contract;”.

(a) Amended by Part 3 of S.I. 2015/1369, coming into force 11th January 2016.
 (b) Amended by Part 3 of S.I. 2015/1369, coming into force 11th January 2016.
 (c) Amended by S.I. 2014/415, 2015/325 and 2015/1369, Part 3 of which comes into force 11th January 2016.
 (d) S.I. 2013/483, to which there are amendments not relevant to these Regulations.
 (e) S.I. 2013/503, amended by S.I. 2014/1824.

Amendments to the Criminal Legal Aid (Determinations by a Court and Choice of Representative) Regulations 2013

8.—(1) The Criminal Legal Aid (Determinations by a Court and Choice of Representative) Regulations 2013(a) are amended as follows.

(2) In regulation 18(7) (criminal proceedings other than before a magistrates' court)(b) in the definition of “prosecution evidence” omit “committal or”.

(3) In regulation 22 (determinations by the Director in certain cases in the Crown Court)—

(a) in paragraph (1) omit “committal, transfer or”, and

(b) in paragraph (2)—

(i) omit “of transfer”, and

(ii) for “section 4 of the Criminal Justice Act 1987” substitute “section 51B of the Crime and Disorder Act 1998(c)”.

Amendments to the Criminal Legal Aid (Remuneration etc.) (Amendment) Regulations 2015

9.—(1) The Criminal Legal Aid (Remuneration etc.) (Amendment) Regulations 2015(d) are amended as follows.

(2) In Schedule 5 (insertion of new Part 1A), in new paragraph 3A(2) (scope) to be inserted in Schedule 2 to the Criminal Remuneration Regulations omit “committed or”.

(3) In Schedule 9 (substitution for paragraph 21(2) to (6)), in new paragraph 21(2) to (5) to be substituted in Schedule 2 to the Criminal Remuneration Regulations—

(a) in sub-paragraph (3)—

(i) in paragraph (b), for “a relevant application for dismissal” substitute “an application for dismissal under paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 (procedure where persons are sent for trial under section 51 applications for dismissal)”, and

(ii) in paragraph (c), for “a relevant hearing” substitute “or before the first hearing at which the assisted person enters a plea”, and

(b) omit sub-paragraph (5).

(4) In Schedule 10 (substitution for paragraph 23(2)), in new paragraph 23(2)(a) and (b) to be substituted in Schedule 2 to the Criminal Remuneration Regulations, for “plea and case management hearing” substitute “first hearing at which the assisted person enters a plea”.

(5) In Schedule 13 (substitution for paragraph 5(2)), in the table following new paragraph 5(2) to be substituted in Schedule 4 to the Criminal Remuneration Regulations, omit the entry for “Category 3”.

Transitional provision

10.—(1) The amendments made by the following do not apply to relevant proceedings—

(a) regulation 3;

(b) regulation 5(2), (3), (5), (7), (9), (10), (11)(b) and (e)(iii), (12)(a) and (13);

(c) regulations 6 and 8, and

(d) regulation 9(2), (3)(a)(i) and (b), in so far as paragraph (3)(b) omits new paragraph 21(5)(a) of Schedule 2 to the Criminal Remuneration Regulations as substituted by

(a) S.I. 2013/614.

(b) Amended by S.I. 2013/2814.

(c) Substituted by paragraph 18 of Schedule 3 to the Criminal Justice Act 2003 and amended by paragraph 48 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and S.I. 2014/834.

(d) S.I. 2015/1369.

Schedule 9 to the Criminal Legal Aid (Remuneration etc.) (Amendment) Regulations 2015, and (5).

(2) The amendments made by regulation 5(11)(c)(iv) and (f) do not apply to proceedings in which a plea and case management questionnaire was filed.

(3) For the purposes of paragraph (1), “relevant proceedings” means proceedings—

(a) which were, prior to the repeal of the applicable legislation—

(i) committed for trial under section 6 of the Magistrates’ Court Act 1980(a), or

(ii) transferred for trial under—

(aa) section 4 of the Criminal Justice Act 1987(b), or

(bb) section 53 of the Criminal Justice Act 1991(c),

or,

(b) in which a hearing under section 6 of the Magistrates’ Court Act 1980 was discontinued or withdrawn.

Shailesh Vara
Parliamentary Under Secretary of State
Ministry of Justice

9th September 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend a number of instruments relating to the provision of legal services under arrangements made under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“the Act”).

Regulations 2, 4 and 7 amend secondary legislation relating to the provision of civil legal services as a result of the coming into force of the 2015 Standard Civil Contract on 1st November 2015. The 2015 Standard Civil Contract, which is made under section 2 of the Act, governs the provision of face-to-face work in the categories of Actions Against the Police etc., Clinical Negligence and Public Law as defined in that contract. The amendments insert reference to the 2015 Standard Civil Contract as necessary to ensure that existing arrangements for the making of applications for civil legal services, remuneration for those services and the exclusion of certain costs from the statutory charge apply in relation to that contract.

Regulations 3, 5, 6, 8 and 9 amend secondary legislation relating to the provision of advice, assistance and representation made available under sections 13, 15 or 16 of the Act (criminal legal aid).

The Criminal Legal Aid (Remuneration) Regulations 2013 (S.I. 2013/435) (“the Remuneration Regulations”) make provision about the payment by the Lord Chancellor to persons who provide criminal legal aid. Regulations 5(4), (6), (8), (11)(a), (c), (d), (e)(i) and (ii), (f) and (g) and (12)(b) and (c)(ii) and (iii) and 9(3)(a)(ii) and (b) and (4) amend the Remuneration Regulations and the Criminal Legal Aid (Remuneration etc.) (Amendment) Regulations 2015 (S.I. 2015/1369) (which amend the Remuneration Regulations with effect from 11th January 2016) consequential to the

(a) 1980 c. 43. Repealed by Part 4 of Schedule 37 to the Criminal Justice Act 2003, subject to saving specified in article 5 of S.I. 2012/1320 and articles 3 and 4 of S.I. 2012/2574 and 2013/1103.

(b) Repealed by Part 4 of Schedule 37 to the Criminal Justice Act 2003, subject to saving specified in article 5 of S.I. 2012/1320 and articles 3 and 4 of S.I. 2012/2574 and 2013/1103.

(c) Repealed by Part 4 of Schedule 37 to the Criminal Justice Act 2003, subject to saving specified in article 5 of S.I. 2012/1320 and articles 3 and 4 of S.I. 2012/2574 and 2013/1103.

new rules on preparation for trial in the Crown Court under the Criminal Procedure Rules 2015 (S.I. 2015/1490 (L.18)). In particular, the amendments omit certain references to a plea and case management hearing (which is no longer mandatory) and make provision by reference to the occurrence or result of the first hearing at which the assisted person enters a plea instead. No change is made to the fees that are payable under the Remuneration Regulations.

Regulations 3, 5(2), (3), (5), (7), (9), (10) (11)(b) and (e)(iii), (12)(a) and (13), 6, 8 and 9(2), (3)(a)(i) and (5) make amendments which are consequential to the repeal of proceedings for the committal or transfer of cases to the Crown Court for trial by Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44). They omit references to committal or transfer for trial and, where necessary, replace them with reference to sending for trial.

Regulation 10 makes transitional provision. Regulation 10(1) provides that the amendments relating to the repeal of proceedings for committal or transfer do not apply to proceedings which were committed or transferred to the Crown Court for trial prior to repeal. Regulation 10(2) provides that the amendments made by regulation 5(11)(c)(iv) and (f) do not apply to proceedings in which a plea and case management questionnaire was filed.

The contracts referred to in these Regulations are available at www.gov.uk/government/publications/standard-civil-contract-2015. Copies can be inspected at the Legal Aid Agency (Head Office) at 102 Petty France, London, SW1H 9AJ.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

© Crown copyright 2015

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.00

UK201509104 09/2015 19585

<http://www.legislation.gov.uk/id/uksi/2015/1678>

ISBN 978-0-11-113923-3



9 780111 139233