

2015 No. 2005

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Civil Legal Aid (Merits Criteria and Information about
Financial Resources) (Amendment) Regulations 2015**

Made - - - - *9th December 2015*

Coming into force in accordance with regulation 1

The Lord Chancellor, in exercise of the powers conferred by sections 11(1)(b), 22(3)(f) and 41(1)(a) and (b) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012^(a) (“the Act”), makes the following Regulations.

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 set out in section 11(3) of the Act;
- (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.

A draft of this instrument has been laid before Parliament and approved by resolution of each House of Parliament in accordance with section 41(6) of the Act.

Citation and commencement

1.—(1) These Regulations may be cited as the Civil Legal Aid (Merits Criteria and Information about Financial Resources) (Amendment) Regulations 2015.

(2) These Regulations come into force on the day after the day on which they are made.

Amendments to the Civil Legal Aid (Merits Criteria) Regulations 2013

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

(2) In regulation 2 (interpretation)^(c), in the definition of “private law children case”—

(a) 2012 c. 10. Section 42(1) provides that in Part 1 of that Act, “regulations” mean regulations made by the Lord Chancellor and “prescribed” means prescribed by regulations (except in Schedule 6 to that Act).

(b) S.I. 2013/104.

(c) Amended by S.I. 2014/131. There are other amending instruments but none is relevant.

(a) at the end of paragraph (b)(i), omit “or”, and

(b) after paragraph (b)(ii) insert—

“(iii) section 51A of the Adoption and Children Act 2002 (post-adoption contact orders)(a); or”.

(3) In regulation 69 (criteria for determinations for full representation in relation to other family cases to which specific merits criteria apply)(b), after paragraph (4)(a)(ii) insert—

“or

(iii) to section 51A of the Adoption and Children Act 2002 (post-adoption contact orders);”.

Amendment to the Legal Aid (Information about Financial Resources) Regulations 2013

3. In paragraph 23 of the Schedule to the Legal Aid (Information about Financial Resources) Regulations 2013(c), after “regulations made under” insert “section 17A of the Children Act 1989(d), section 49(3) of the Children and Families Act 2014 (personal budgets and direct payments)(e),”.

Shailesh Vara

Parliamentary Under Secretary of State

Ministry of Justice

9th December 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Civil Legal Aid (Merits Criteria) Regulations 2013 (S.I. 2013/104) (“the Merits Criteria Regulations”), which make provision for the criteria which the Director of Legal Aid Casework must apply when determining whether an individual or legal person qualifies for civil legal services under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“the Act”).

Regulation 2(2) of these Regulations amends the definition of “private law children case” set out in regulation 2 of the Merits Criteria Regulations to provide that it includes matters described in paragraph 12 (victims of domestic violence and family matters) of Part 1 of Schedule 1 to the Act which relate to orders regarding post-adoption contact under section 51A of the Adoption and Children Act 2002 (c. 38).

Regulation 2(3) of these Regulations amends regulation 69 of the Merits Criteria Regulations to provide that a relevant determination for the purpose of regulation 69 does not include a determination in relation to matters described in paragraph 12 (victims of domestic violence and family matters) of Part 1 of Schedule 1 to the Act which relate to orders under section 51A of the Adoption and Children Act 2002.

Regulation 3 of these Regulations amends the Legal Aid (Information about Financial Resources) Regulations 2013 (S.I. 2013/628) to prescribe information about direct payments made under regulations made under section 17A of the Children Act 1989 (c. 41) and section 49(3) of the Children and Families Act 2014 (c. 6). This permits requests for information about an individual’s

(a) 2002 c. 38. Section 51A was inserted by section 9 of the Children and Families Act 2014 (c. 6).

(b) Amended by S.I. 2014/131. There is another amending instrument but it is not relevant.

(c) S.I. 2013/628, amended by S.I. 2015/643. The present amendment was made by S.I. 2015/838 but that amendment was revoked by S.I. 2015/1408.

(d) 1989 c. 41. Section 17A was inserted by section 7(1) of the Carers and Disabled Children Act 2000 (c. 16) and substituted by section 58 of the Health and Social Care Act 2001 (c. 15). It was further amended by Schedule 3, paragraphs 15 and 17, and Schedule 6 to the Tax Credits Act 2002 (c. 21), Schedule 3, paragraph 6 to the Welfare Reform Act 2007 (c. 5), Schedule 3, paragraphs 1 and 3 to the Children and Young Persons Act 2008 (c. 23), Schedule 2, paragraph 1(b) to the Welfare Reform Act 2012 (c. 5) and S.I. 2015/914.

(e) 2014 c. 6.

receipt of those direct payments to be made for the purposes of the Director assessing an individual's financial resources.

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

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