
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend three statutory instruments relating to the provision of civil legal services under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“the Act”), as a result of the coming into force of the 2018 Standard Civil Contract and the 2018 Civil Legal Advice Contract (“2018 CLA Contract”) on 1st September 2018. These contracts are made in accordance with section 2 of the Act. The 2018 Standard Civil Contract governs the provision of face-to-face legal aid services in all civil categories. The 2018 CLA Contract governs the provision of remote legal aid services in certain civil categories. These Regulations also re-categorise work in the Immigration and Asylum Chamber of the Upper Tribunal as Licensed Work.

Regulation 2 amends the Civil Legal Aid (Procedure) Regulations 2012 (S.I. 2012/3098), which make provision about the making and withdrawal of determinations that an individual qualifies for civil legal services under sections 9 and 10 of the Act. Regulation 2 makes minor amendments, to make reference to the 2018 Standard Civil Contract and the 2018 CLA Contract, in the provisions governing the procedures for making applications for Gateway Work, Controlled Work, Licensed Work and Exceptional Cases. Regulation 2 also removes legal representation for proceedings in the Immigration and Asylum Chamber of the Upper Tribunal in relation to an appeal or review from the Immigration and Asylum Chamber of the First-tier Tribunal from the definition of Controlled Work, resulting in this work being re-categorised as Licensed Work.

Regulation 3 amends the Civil Legal Aid (Remuneration) Regulations 2013 (S.I. 2013/422), which make provision about payment by the Lord Chancellor to persons who provide civil legal services under arrangements made for the purposes of Part 1 of the Act, to enable remuneration to be paid to persons who provide civil legal services under the 2018 Standard Civil Contract and the 2018 CLA Contract.

Regulation 4 amends the Civil Legal Aid (Statutory Charge) Regulations 2013 (S.I. 2013/503), which make provision about the statutory charge which arises over money and other property preserved or recovered by a legally aided party in civil proceedings and over costs payable to the legally aided party by another party to the proceedings (“the charge”). Regulation 4 makes minor amendments to the definition of “legal aid only costs” to ensure that legal aid only costs as described under the 2018 Standard Civil Contract are excepted from the charge on costs payable to a legally aided party and do not form part of the charge on costs recovered from another party to the proceedings.

Regulation 5(1) provides that the amendments made by regulation 2(4) do not apply to an application for Controlled Work in relation to an immigration matter within the scope of civil legal aid if it was made before 1st September 2018. Regulation 5(2) provides that the amendments made by regulation 2(4) do not apply to an application for civil legal services made on or after 1st September 2018, if the application relates to a case in respect of which an earlier application for Controlled Work was made before 1st September 2018.

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

The impacts of the Government’s programme of legal aid reform implemented through the Act are set out in an Impact Assessment which was updated following the Act receiving Royal Assent. This is available at www.justice.gov.uk/legislation/bills-and-acts/acts/legal-aid-and-sentencing-act/laspo-background-information. Copies are available at the Ministry of Justice, 102 Petty France, London SW1H 9AJ. An Impact Assessment has not been prepared specifically for this instrument.