

2018 No. 803

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Civil Legal Aid (Procedure, Remuneration and Statutory Charge) (Amendment) Regulations 2018

<i>Made</i>	- - - -	<i>2nd July 2018</i>
<i>Laid before Parliament</i>		<i>2nd July 2018</i>
<i>Coming into force</i>	- -	<i>1st September 2018</i>

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

Citation and commencement

1. These Regulations may be cited as the Civil Legal Aid (Procedure, Remuneration and Statutory Charge) (Amendment) Regulations 2018 and come into force on 1st September 2018.

Amendment to the Civil Legal Aid (Procedure) Regulations 2012

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

(2) In regulation 2 (interpretation), in the definition beginning “2010 Standard Civil Contract”, for “and “2015 Standard Civil Contract”” substitute “, “2015 Standard Civil Contract”, “2018 Standard Civil Contract” and “2018 CLA Contract””.

(3) In each of—

- (a) regulation 20 (interpretation), in the definition of “relevant category”;
- (b) paragraph (1)(c) of regulation 23 (the application);
- (c) paragraph (4)(c) of regulation 31 (the application); and
- (d) paragraph (1) of regulation 67 (the application),

for “or 2015 Standard Civil Contract” substitute “, 2015 Standard Civil Contract or 2018 Standard Civil Contract”.

(4) In regulation 21(2)(e) (Controlled Work – General):

- (a) after “(ii) the Mental Health Tribunal for Wales;” insert “or”;
- (b) after “(iii) the Immigration and Asylum Chamber of the First-tier Tribunal” insert “, other than in relation to an application for permission to appeal to the Immigration and Asylum Chamber of the Upper Tribunal.”; and

(a) 2012 c. 10. Section 42(1) provides that, in Part 1 of the Act, “regulations” means regulations made by the Lord Chancellor.
(b) S.I. 2012/3098; relevant amending instruments are S.I. 2014/1824 and 2015/1678.

- (c) omit “; or (iv) 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.”.

Amendments to the Civil Legal Aid (Remuneration) Regulations 2013

- 3.**—(1) The Civil Legal Aid (Remuneration) Regulations 2013(a) are amended as follows.
- (2) In regulation 2(1) (interpretation)—
- (a) in the definition of “Category Definition”, for “or the 2015 Standard Civil Contract” substitute “, the 2015 Standard Civil Contract or the 2018 Standard Civil Contract”;
 - (b) in the definition of “the relevant contract”, for “or the 2016 Standard Civil Contract (Welfare Benefits)” substitute “, the 2016 Standard Civil Contract (Welfare Benefits) or the 2018 Standard Civil Contract”; and
 - (c) in the definition beginning “the 2010 Standard Civil Contract”, for “and the “2016 Standard Civil Contract (Welfare Benefits)”” substitute “, “the 2016 Standard Civil Contract (Welfare Benefits)” and “the 2018 Standard Civil Contract””.
- (3) In regulation 5A (remuneration for civil legal services: judicial review)—
- (a) in paragraph (3)(b), for ““2013 CLA Contract” means the contract” substitute ““2013 CLA Contract and “2018 CLA Contract” mean the contracts”; and
 - (b) in paragraph (3)(j), for “or the 2015 Standard Civil Contract” substitute “, the 2015 Standard Civil Contract, the 2018 Standard Civil Contract or the 2018 CLA Contract”.

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

- 4.** In regulation 2(1) (interpretation) of the Civil Legal Aid (Statutory Charge) Regulations 2013(b), in the definition of “legal aid only costs”—
- (a) in sub-paragraph (g) omit “or”; and
 - (b) after sub-paragraph (h) insert
 - “or
 - (i) the 2018 Standard Civil Contract;”.

Transitional Provisions

- 5.**—(1) Regulation 2(4) does not apply to an application for Controlled Work in relation to an immigration matter which is described in Part 1 of Schedule 1 to the Act, if the application was made before 1st September 2018.
- (2) Regulation 2(4) does not apply where an individual makes an application for civil legal services in relation to an immigration matter which is described in Part 1 of Schedule 1 to the Act on or after 1st September 2018 and the following conditions are met—
- (a) civil legal services have been provided to that individual as a result of an application falling within paragraph (1); and
 - (b) the further application for civil legal services relates to the same case for which civil legal services were provided as a result of the application which falls within paragraph (1).
- (3) In this regulation—
- (a) “Controlled Work” has the meaning given in regulation 21(2) of the Civil Legal Aid (Procedure) Regulations 2012(c); and

(a) S.I. 2013/422; relevant amending instruments are S.I. 2014/7, 2014/586, 2014/1824, 2015/325, 2015/898, 2015/1678 and 2016/983. Regulation 5A was inserted by regulation 2 of S.I. 2015/898.

(b) S.I. 2013/503; relevant amending instruments are S.I. 2014/1824, 2015/1678 and 2016/983.

(c) S.I. 2012/3098.

(b) “the Act” means the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

(4) For the purposes of this regulation an application is made on the date it is signed and dated.

2nd July 2018

Lucy Frazer
Parliamentary Under Secretary of State
Ministry of Justice

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.

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