

2022 No. 1379

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Civil Legal Aid (Immigration Interviews (Exceptions) and
Remuneration) (Amendment) Regulations 2022**

<i>Made</i>	- - - -	<i>19th December 2022</i>
<i>Laid before Parliament</i>		<i>20th December 2022</i>
<i>Coming into force</i>	- -	<i>1st April 2023</i>

The Lord Chancellor, in exercise of the powers conferred by sections 2(3) and 41(1), (2) and (3) of, and paragraph 30(3) of Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012(a), makes the following Regulations.

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Civil Legal Aid (Immigration Interviews (Exceptions) and Remuneration) (Amendment) Regulations 2022 and come into force on 1st April 2023.

(2) In these Regulations “the Remuneration Regulations” means the Civil Legal Aid (Remuneration) Regulations 2013(b).

(3) These Regulations extend to England and Wales.

Amendments to the Civil Legal Aid (Immigration Interviews) (Exceptions) Regulations 2012

2.—(1) The Civil Legal Aid (Immigration Interviews) (Exceptions) Regulations 2012(c) are amended as follows.

(2) In regulation 2, in the appropriate place insert, ““removal centre” means a removal centre as defined in section 147 of the Immigration and Asylum Act 1999(d)”

(3) In regulation 3 (attendance at immigration interviews: children), after “at an immigration interview” insert “(including a screening interview)”.

(4) For regulation 4(a)(i) (attendance at immigration interviews: individuals who are not children) substitute—

“(i) is detained at a removal centre; or”

Amendments to regulation 5A of the Remuneration Regulations

3. In regulation 5A(3)(j) (remuneration for civil legal services: judicial review), after “the 2015 Standard Civil Contract,” insert “the 2016 Standard Civil Contract (Welfare Benefits),”.

(a) 2012 c. 10.

(b) S.I. 2013/422 as amended by S.I. 2020/515 and S.I. 2020/1001; there are other amending instruments, but none is relevant.

(c) S.I. 2012/2683 as amended by S.I. 2017/192.

(d) 1999 c. 33.

Amendments to Schedule 1 to the Remuneration Regulations

4.—(1) Schedule 1 to the Remuneration Regulations (civil standard and graduated fees) is amended as follows.

(2) In the heading to Part 1 omit “and Graduated”.

(3) In paragraph 2A for “or the 2016 Standard Civil Contract (Welfare Benefits)”, substitute “, the 2016 Standard Civil Contract (Welfare Benefits) or the 2018 Standard Civil Contract.”

(4) After Table 4(a) (immigration and asylum standard fees) insert—

“Table 4(aa): Immigration and Asylum Standard Fees – online system appeals

Immigration and Asylum: online procedure appeals

<i>Type of matter</i>	<i>Stage 2d (appeals without a hearing)</i>	<i>Stage 2e (appeals with a hearing)</i>
Asylum	£669	£1,009
Immigration – non asylum	£628	£855”

(5) In Table 4(b) (additional payment - UKBA interview), including its heading, for “UKBA” substitute “UKVI” in both places it occurs.

(6) After Table 4(b) insert—

“Table 4(ba): Additional Payment – National Referral Mechanism

National Referral Mechanism Advice	£150”
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(7) In Table 4(d) (immigration removal centres standard fees (for exclusive schedule holders only)), in the third row of the first column omit “Fast Track”.

(8) In the heading to Table 7, for “2014 Standard Civil Contract (Welfare Benefits) and 2016 Standard Civil Contract (Welfare Benefits)”, substitute “Legal help or help at court in the Welfare Benefits Category of Law under the 2014 Standard Civil Contract (Welfare Benefits), 2016 Standard Civil Contract (Welfare Benefits) and the 2018 Standard Civil Contract”.

(9) Before Table 7(a) insert a new heading “Legal help, help at court and family help (lower)”.

(10) In the heading to Table 7(a) omit “Legal help, help at court and family help (lower)”.

(11) In the heading to Table 7(d) omit “hourly rates cases”.

(12) In Tables 8(c) and 8(ca), in the “Routine letters out and telephone calls” rows, for “per hour” substitute “per item” in both places it occurs.

(13) In Table 8(d)—

(a) in the first row of the “Activity” column, for “Preparation, Attendance and Advocacy”, substitute “Preparation and Attendance”,

(b) in the fourth row “Advocacy”, under the London Rate and Non-London Rate columns, for “per item” substitute “per hour” in both places it occurs.

(14) In Table 10(a), in the fourth row “Attendance at court or conference with Counsel”, after “£33.30” insert “per hour” and after “£29.25” insert “per hour”

Signed by authority of the Lord Chancellor

19th December 2022

Bellamy
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend two statutory instruments relating to the provision of civil legal services under Part 1 of the Legal Aid Sentencing and Punishment of Offenders Act 2012 (c.10) (“the Act”) as a result of changes required to be made because of the coming into force of the Nationality and Borders Act 2022 (c.36) and because of a new online procedure created by Her Majesty’s Courts and Tribunals Service (“HMCTS”) in relation to cases in the Immigration and Asylum Chamber of the First Tier Tribunal. These Regulations also make some minor and insubstantial corrections to the Civil Legal Aid (Remuneration) Regulations 2013 (S.I. 2013/422) (“the Remuneration Regulations”).

Regulation 2 amends the Civil Legal Aid (Immigration Interviews) (Exceptions) Regulations 2012 (S.I. 2012/2683) (“the Immigration Interviews (Exceptions) Regulations”). Paragraph 30 of Part 1 of Schedule 1 to the Act sets out the scope of civil legal services within which civil legal aid may be made available in relation to an individual’s rights to enter and remain in the United Kingdom under certain specified provisions. Paragraph 30(3) of Part 1 of the Schedule provides that such services do not include attendance at an immigration interview conducted on behalf of the Secretary of State with a view to reaching a decision on a claim, except where regulations provide otherwise. The Immigration Interviews (Exceptions) Regulations provide exceptions to paragraph 30(3).

Regulation 2 makes it clear that civil legal aid is to be made available to cover attendance at an immigration interview and at a screening interview where the individual being interviewed is under the age of 18 or is being treated as such for the purposes of the interview. This was always the intention of the Immigration Interviews (Exceptions) Regulations and the intention is merely clarificatory.

It also removes a list of three named Removal Centres at which work under paragraph 30(1) of Part 1 of Schedule 1 to the Act is required to be carried out. The list of three Removal Centres was added by the Civil Legal Aid (Immigration Interviews) (Exceptions) (Amendment) Regulations 2017 (S.I. 2017/192). Regulation 3 replaces the list with reference to the definition of a Removal Centre in the Immigration and Asylum Act 1999 (c.33) in order to ensure that the provision is applicable to all existing and future Removal Centres.

Regulations 3 and 4 amend the Remuneration Regulations, which make provision about payment by the Lord Chancellor to providers of civil legal services under arrangements made for the purpose of Part 1 of the Act.

Regulation 4 adds four new fees to remunerate legal aid providers for work they are now required to carry out through HMCTS’s new online procedure and adds a new additional fixed fee for providers who provide advice on referral into the National Referral Mechanism (“NRM”). Legal aid in relation to advice on the NRM is a new in scope service introduced by the Nationality and Borders Act 2022.

Regulations 3 and 4 also correct a previous oversight by adding in reference to the 2016 Standard Civil Contract (Welfare Benefits) and the 2018 Standard Civil Contract.

Regulation 4 also makes a number of minor and insubstantial corrections to the Remuneration Regulations, for example, correcting fees which are currently “per hour” where they should be “per item”.

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.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Legal Aid Policy Team, Access to Justice Directorate, Ministry of Justice, 102 Petty France, London SW1H 9AJ. The impact

assessment is annexed to the Explanatory Memorandum which is available alongside these Regulations on the UK legislation website at <http://www.legislation.gov.uk>.

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