

*Draft Regulations laid before Parliament under section 41(6) of the Legal Aid, Sentencing and
Punishment of Offenders Act 2012, for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2013 No. 00

**LEGAL AID AND ADVICE,
ENGLAND AND WALES**

**The Civil Legal Aid (Merits Criteria)
(Amendment) Regulations 2013**

Made - - - - *xx*
Coming into force - - *1st April 2013*

The Lord Chancellor makes the following Regulations⁽¹⁾ in exercise of the powers conferred by sections 11(1)(b), 41(1)(a) and (3)(a) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012⁽²⁾ (“the Act”).

In making these Regulations, in accordance with section 11(2), (3) and (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 in section 11(3); and
- (b) 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.

In accordance with section 41(6) of the Act, a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Civil Legal Aid (Merits Criteria) (Amendment) Regulations 2013 and come into force on 1st April 2013.

Amendment of the Civil Legal Aid (Merits Criteria) Regulations 2013

2.—(1) The Civil Legal Aid (Merits Criteria) Regulations 2013⁽³⁾ are amended as follows.

(1) Section 42(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) provides that in Part 1 of that Act “regulations” means Regulations made by the Lord Chancellor.
(2) 2012 c.10.
(3) S.I. 2013/104.

(2) In regulation 53 (standard criteria for determinations for legal representation in relation to public law claims), for sub-paragraph (b) substitute—

“(b) there are no alternative proceedings before a court or tribunal which are available to challenge the act, omission or other matter, except where the Director considers that such proceedings would not be effective in providing the remedy that the individual requires.”

Signed by authority of the Lord Chancellor

Minister of State
Ministry of Justice

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](#)), 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 Regulations amend the criteria which the Director of Legal Aid Casework (“the Director”) must apply in relation to determinations for legal representation in relation to public law claims. The amendment gives the Director the express power to grant legal aid for public law claims even where other court or tribunal proceedings have not been pursued if the Director considers that such proceedings would not provide the remedy which the individual requires. These Regulations and the Civil Legal Aid (Merits Criteria) Regulations 2013 come into force on 1st April 2013.