
STATUTORY INSTRUMENTS

2012 No. 3098

The Civil Legal Aid (Procedure) Regulations 2012

PART 4

Licensed Work

Withdrawal of determinations

- 42.**—(1) The Director may withdraw a determination where—
- (a) the individual no longer qualifies for the services to be made available by the determination in accordance with—
 - (i) the criteria set out in regulations made under section 11 of the Act; or
 - (ii) regulations made under section 21 of the Act;
 - (b) the services made available by the determination have been provided;
 - (c) the proceedings to which the determination relates have been concluded;
 - (d) the service made available by the determination was investigative representation and sufficient work has been carried out to determine the prospects of success and the cost benefit criteria;
 - (e) the individual consents;
 - (f) the individual has died;
 - (g) a bankruptcy order has been made against the individual;
 - (h) the individual has—
 - (i) failed without good reason to comply with a requirement to provide information or documents;
 - (ii) failed without good reason to attend a meeting with the Director; or
 - (iii) in providing required information or documents, made a statement or representation knowing or believing it to be false;
 - (i) an order has been made under section 42 of the Senior Courts Act 1981⁽¹⁾ or section 33 of the Employment Tribunals Act 1996⁽²⁾(restriction of vexatious proceedings) in relation to the individual;
 - (j) the Director is satisfied that the individual has required the proceedings to be conducted unreasonably so as to incur unjustifiable expense; or
 - (k) in relation to services described in paragraphs 12 and 13 of Part 1 of Schedule 1 to the Act, the evidence included with the application was—
 - (i) a conviction for an offence and that conviction has subsequently been quashed;

(1) 1981 c. 54.

(2) 1996 c. 17.

- (ii) evidence of ongoing criminal proceedings and those proceedings have subsequently been concluded without a conviction; or
 - (iii) evidence of an application described in regulation 34(2)(h) and that application has subsequently been withdrawn or refused,
unless the individual provides another form of evidence (excluding evidence described in paragraphs (i) to (iii)) which would have been permitted in accordance with these Regulations at the date of the application.
- (2) In any of the circumstances described in paragraph (1)(h) to (j) the Director may—
- (a) revoke the determination; and
 - (b) withdraw any other determination that the individual qualifies for civil legal services.
- (3) Except in the circumstances described in paragraph (1)(a)(ii), (b), (e) and (f), before withdrawing a determination, the Director must—
- (a) notify the individual of the intention to withdraw the determination;
 - (b) invite written representations within a specified time limit;
 - (c) upon the expiry of the time limit specified under sub-paragraph (b)—
 - (i) consider the written representations;
 - (ii) decide whether to withdraw the determination; and
 - (iii) notify the individual of the decision as to whether to withdraw the determination.
- (4) The withdrawal is to be treated as having effect from the date of the notification described in paragraph (3)(a).
- (5) The withdrawal of a determination does not affect the provider's right to remuneration for work done prior to the date of the withdrawal unless the provider failed without good reason to comply with the reporting requirements in regulations 40(2) and (3) and 41(1).
- (6) Where the Director has withdrawn a determination, the Director may subsequently determine that the withdrawal is to be treated as a revocation following the provision of new information which demonstrates that the circumstances described in paragraph (1)(h) to (j) were present at the time of withdrawal.