
STATUTORY INSTRUMENTS

2013 No. 2790

**The Criminal Legal Aid (General)
(Amendment) Regulations 2013**

PART 1

GENERAL AND AMENDMENTS

Citation and commencement

1.—(1) These Regulations may be cited as the Criminal Legal Aid (General) (Amendment) Regulations 2013.

(2) Except as provided by paragraph (3), these Regulations come into force on 2nd December 2013.

(3) Regulations 3, 5, 6 and 8 come into force on 27th January 2014.

Interpretation

2. In these Regulations—

“the Act” means the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“the General Regulations” means the Criminal Legal Aid (General) Regulations 2013⁽¹⁾.

Amendments to the General Regulations

3. In regulation 2 (interpretation), after “criminal legal aid”, insert—

““Financial Resources Regulations” means the Criminal Legal Aid (Financial Resources) Regulations 2013⁽²⁾”.

4.—(1) Regulation 12 (prescribed conditions) of the General Regulations is amended as follows.

(2) For paragraph (2)(d), substitute—

“(d) require advice and assistance regarding—

(i) the application of the provisions in Chapter 6 of Part 12 of the Criminal Justice Act 2003⁽³⁾ or in Chapter 2 of Part 2 of the Crime (Sentences) Act 1997⁽⁴⁾, which determine when a prisoner is either entitled to be released by the Secretary of State or eligible for consideration by the Parole Board⁽⁵⁾ for a direction to be released; or

(1) [S.I. 2013/9](#).

(2) [S.I. 2013/471](#) as amended by the Criminal Legal Aid (Financial Resources) (Amendment) Regulations 2013 ([S.I. 2013/2791](#)).

(3) [2003 c. 44](#).

(4) [1997 c. 43](#).

(5) The Parole Board is constituted under section 239 of the Criminal Justice Act 2003 ([c. 44](#)).

- (ii) the application of the provisions in Chapter 2 of Part 5 of the Powers of Criminal Courts (Sentencing) Act 2000⁽⁶⁾, which determine when an offender is entitled to be released by the Secretary of State;”.
- (3) For paragraph (2)(f) substitute—
 - “(f) require advice and assistance regarding a disciplinary hearing in a prison or young offender institution where—
 - (i) the proceedings involve the determination of a criminal charge for the purposes of Article 6(1) of the European Convention on Human Rights; or
 - (ii) the governor has exercised the governor’s discretion to allow advice and assistance in relation to the hearing;”
- (4) In paragraph (2)(g) after “Parole Board”, insert “where the Parole Board has the power to direct that individual’s release”.
- (5) Omit paragraph (2)(h).
- (6) For paragraph (3), substitute—
 - “(3) In this regulation—
 - (a) “governor” includes—
 - (i) a director approved by the Secretary of State for the purposes of section 85(1)(a) of the Criminal Justice Act 1991⁽⁷⁾ (“the 1991 Act”); and
 - (ii) a controller appointed by the Secretary of State under section 85(1)(b) of the 1991 Act,

where the Secretary of State has entered into a contract for the running of a prison under section 84 of the 1991 Act⁽⁸⁾; and
 - (b) “volunteer” means an individual who, for the purposes of assisting with an investigation, without having been arrested—
 - (i) attends voluntarily at a police station, customs office or any other place where a constable is present; or
 - (ii) accompanies a constable to a police station, customs office or any other such place.”.

5.—(1) Regulation 24 (determinations: proceedings in the magistrates’ court) of the General Regulations is amended as follows.

(2) For paragraph (1) substitute—

“(1) Subject to paragraph (2), when the Director makes a determination under section 16 of the Act in accordance with Part 3 of the Financial Resources Regulations that an individual is eligible for representation for proceedings in the magistrates’ court, the Director must also make a determination that the individual is eligible in accordance with Part 4 of the Financial Resources Regulations for representation in the Crown Court in relation to those proceedings.”

6.—(1) Regulation 25 (determinations: certain proceedings in the Crown Court) of the General Regulations is amended as follows.

(2) For paragraph (1) substitute—

⁽⁶⁾ 2000 c. 6.

⁽⁷⁾ 1991 c. 53. Section 85 has been amended but the amendments are not relevant to these Regulations.

⁽⁸⁾ Section 84 was substituted by section 96 of the Criminal Justice and Public Order Act 1994 (c. 33).

“(1) In the circumstances described in paragraph (2), the Director must consider the individual’s application for a determination under section 16 for representation for the purposes of criminal proceedings in the Crown Court in accordance with Part 4 of the Financial Resources Regulations.”