
STATUTORY INSTRUMENTS

2013 No. 422

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

The Civil Legal Aid (Remuneration) Regulations 2013

Made - - - - 25th February 2013
Laid before Parliament 28th February 2013
Coming into force - - 1st April 2013

The Lord Chancellor makes the following Regulations ^{M1} in exercise of the powers conferred by sections 2(3), 5(2), 5(4) and 41(1) to (3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ^{M2}.

Marginal Citations

- M1** 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.
- M2** [2012 c. 10](#).

VALID FROM 01/04/2013

Citation and commencement **E+W**

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

Interpretation **E+W**

2.—(1) In these Regulations—

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

“advocate” means a person who exercises a right of audience before a court, tribunal or other person and “advocacy” means the exercise of such a right;

“advocates' meeting” means an advocates' meeting directed by the court pursuant to the outline set out in the table following paragraph 10 of Practice Direction 12A (Public Law

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Proceedings Guide to Case Management: April 2010) to the Family Procedure Rules 2010^{M3}.

“advocacy services” means work done—

- (a) by an advocate at a court hearing;
- (b) by an advocate, as such, in connection with an advocates' meeting;
- (c) by counsel in connection with a conference; and
- (d) by counsel in connection with an opinion,

and fees and rates for advocacy services include, unless different provision is made in these Regulations, remuneration for preparatory work, attendances, travelling and waiting in relation to those services;

“Category Definition” means one of the Category Definitions that form part of the 2010 Standard Civil Contract or the 2013 Standard Civil Contract;

“Controlled Work” has the same meaning as in regulation 21(2) of the Civil Legal Aid (Procedure) Regulations 2012^{M4};

“counsel” means—

- (a) a barrister in independent practice; and
- (b) a solicitor or Fellow of the Institute of Legal Executives who does not work in a partnership and who is not a party to the relevant contract;

“family proceedings” means proceedings which arise out of family relationships, and includes proceedings in which the welfare of children is determined, and includes proceedings under the following—

- (a) the Matrimonial Causes Act 1973^{M5};
- (b) the Adoption Act 1976^{M6};
- (c) the Domestic Proceedings and Magistrates' Courts Act 1978^{M7};
- (d) Part III (financial relief in England and Wales after overseas divorce etc) of the Matrimonial and Family Proceedings Act 1984^{M8};
- (e) Parts I to V (introductory, orders with respect to children in family proceedings, local authority support for children and families, care and supervision, protection of children) of the Children Act 1989^{M9};
- (f) Part IV (family homes and domestic violence) of the Family Law Act 1996^{M10};
- (g) the Adoption and Children Act 2002^{M11};
- (h) the Civil Partnership Act 2004^{M12}; and
- (i) the inherent jurisdiction of the High Court in relation to children,

but does not include judicial review proceedings, proceedings under the Inheritance (Provision for Family and Dependants) Act 1975^{M13} or proceedings under the Trusts of Land and Appointment of Trustees Act 1996^{M14};

“legally aided person” means a person for whom civil legal services are made available under arrangements made for the purposes of Part 1 of the Act and “client” has the same meaning;

“provider” means a party, other than the Lord Chancellor, to the relevant contract;

“the relevant contract” means whichever of the 2010 Standard Civil Contract, the 2013 Standard Civil Contract or the 2013 Individual Case Contract (Civil) governs the provision of civil legal services for which remuneration is claimed; and

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“the 2010 Standard Civil Contract”, “the 2013 Standard Civil Contract”, the “2013 Individual Case Contract (Civil)” and “the 2013 Individual Case Contract (High Cost Civil)” mean the contracts so named between the Lord Chancellor and a provider of civil legal services^{M15} under Part 1 of the Act (legal aid).

(2) A reference in these Regulations to the following forms of civil legal services—

- (a) legal help;
- (b) help at court;
- (c) family help;
- (d) family mediation;
- (e) help with family mediation;
- (f) legal representation; and
- (g) other legal services,

is to the provision of those forms of service as defined in Part 2 of the Civil Legal Aid (Merits Criteria) Regulations 2013^{M16}.

Marginal Citations

- M3** [S.I. 2010/2955](#). Practice Direction 12A came into effect on 6th April 2010 and replaced the Practice Direction Guide to Case Management in Public Law Proceedings dated April 2008.
- M4** [S.I. 2012/3098](#).
- M5** [1973 c. 18](#).
- M6** [1976 c. 36](#).
- M7** [1978 c. 22](#).
- M8** [1984 c. 42](#).
- M9** [1989 c. 41](#).
- M10** [1996 c. 27](#).
- M11** [2002 c. 38](#).
- M12** [2004 c. 33](#).
- M13** [1975 c. 63](#).
- M14** [1996 c. 47](#).
- M15** The contracts 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.
- M16** [S.I. 2013/104](#).

Value Added Tax **E+W**

- 3. All rates and fees set out in the Schedules are exclusive of value added tax.

Delegation **E+W**

- 4. A function of the Lord Chancellor under these Regulations may be exercised by, or by an employee of, a person authorised for that purpose by the Lord Chancellor^{M17}.

Marginal Citations

- M17** [Section 6](#) (authorisations) of the Act makes provision for authorisations given for the purpose of section 5 (delegation) of the Act or regulations under that section.

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Non application to civil legal services provided under certain contracts **E+W**

5.—(1) Regulations 6 to 11 are subject to this regulation.

(2) These Regulations do not apply to the payment of remuneration by the Lord Chancellor to persons who provide civil legal services where the provision of those services is governed by a contract between a person and the Lord Chancellor which has been awarded as part of any pilot which provides for remuneration by way of one or more standard fees.

(3) With the exception of regulations 7 and 10, these Regulations do not apply to the payment of remuneration by the Lord Chancellor to persons who provide civil legal services where the provision of those services is governed by a contract between a person and the Lord Chancellor which has been awarded after competitive tendering as to price has taken place.

(4) With the exception of regulation 10, these Regulations do not apply to the payment of remuneration by the Lord Chancellor to persons who provide civil legal services where the provision of those services is governed by the Individual Case Contract (High Cost Civil).

(5) Where paragraph (3) applies, the reference in regulation 10(a) to “the relevant contract” is to the contract between a person and the Lord Chancellor which has been awarded after competitive tendering as to price has taken place.

(6) Where paragraph (4) applies, the reference in regulation 10(a) to “the relevant contract” is to the Individual Case Contract (High Cost Civil).

Remuneration for civil legal services: general **E+W**

6.—(1) This regulation applies to the payment by the Lord Chancellor of remuneration to providers of civil legal services other than—

- (a) advocacy services in family proceedings; or
- (b) civil legal services in relation to inquests.

(2) The Lord Chancellor must pay remuneration to a provider of civil legal services in accordance with—

- (a) the relevant contract; and
- (b) subject to paragraph (3), the fees and rates set out in Schedule 1.

(3) The Lord Chancellor may pay a percentage enhancement to the hourly rates set out in Schedule 1, but the percentage enhancement must not exceed—

- (a) 100% for proceedings in the Upper Tribunal, High Court, Court of Appeal or the Supreme Court; and
- (b) 50% for all other proceedings.

E+W

7.—(1) This regulation applies to the payment by the Lord Chancellor of remuneration for civil legal services provided by barristers in independent practice where the civil legal services—

- (a) are in relation to work that is not Controlled Work; and
- (b) are not—
 - (i) advocacy services in family proceedings; or
 - (ii) other legal services in relation to inquests.

(2) Subject to paragraphs (3) and (4), the Lord Chancellor must pay remuneration for civil legal services to which this regulation applies in accordance with the rates set out in Schedule 2.

(3) The Lord Chancellor may increase the hourly rate for junior counsel in county court proceedings set out in Schedule 2 if the Lord Chancellor considers it reasonable to do so.

(4) Where a barrister in independent practice provides civil legal services in a category not listed in the Table in Schedule 2, in considering the rate at which to remunerate the barrister for the services provided, the Lord Chancellor must have regard to the rates set out in that Table.

(5) For the purpose of this regulation and Schedule 2—

- (a) “junior counsel” means a barrister in independent practice of less than 10 years call; and
- (b) “senior counsel” means a barrister in independent practice of 10 years call or more.

Remuneration: advocacy services in family proceedings E+W

8.—(1) This regulation applies to the payment by the Lord Chancellor of remuneration for the provision of advocacy services in family proceedings.

(2) Subject to paragraph (3), the Lord Chancellor must pay remuneration for advocacy services in family proceedings in accordance with—

- (a) the relevant contract; and
- (b) the fees and rates set out in Schedule 3.

(3) The Lord Chancellor must pay remuneration, other than to counsel, for advocacy services in family proceedings provided in the circumstances described in paragraph (4) in accordance with—

- (a) the relevant contract; and
- (b) the relevant hourly rates set out in Schedule 1.

(4) The circumstances referred to in paragraph (3) are where advocacy services are provided—

- (a) to any party in child abduction proceedings;
- (b) in proceedings under Part IVA (forced marriage) of the Family Law Act 1996^{M18};
- (c) in defended proceedings for divorce or judicial separation, for dissolution of a civil partnership or the legal separation of civil partners;
- (d) in proceedings for the nullity of marriage or annulment of a civil partnership;
- (e) in applications for a parental order under the Human Fertilisation and Embryology Act 2008^{M19};
- (f) in proceedings under the inherent jurisdiction of the High Court in relation to children;
- (g) where the advocate separately represents a child in proceedings which are neither specified proceedings within the meaning of section 41(6) of the Children Act 1989 nor are heard together with such proceedings;
- (h) in proceedings in the Court of Appeal or the Supreme Court;
- (i) in a final appeal; or
- (j) by Queen's Counsel acting as such under a prior authority given by the Lord Chancellor under the relevant contract.

(5) In paragraph (4), “final appeal” means any appeal against a final order in family proceedings but does not include—

- (a) an application to the court of first instance for permission to appeal; and
- (b) advice on the merits of appealing against a final order.

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(6) Where advocacy services in the circumstances described in paragraph (4) are provided by counsel, the Lord Chancellor must pay remuneration to counsel in accordance with the relevant contract.

(7) In circumstances where the relevant contract requires the amount of remuneration payable to counsel to be determined having regard to matters including the remuneration that would have been payable had the services been remunerated under the provisions of the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001 ^{M20}, in deciding the amount of remuneration to pay to counsel under paragraph (6) the Lord Chancellor must reduce by 10% the remuneration that would have been payable under that Order.

Marginal Citations

M18 Part IVA was inserted by section 1 of the [Forced Marriage \(Civil Protection\) Act 2007 \(c.20\)](#).

M19 [2008 c. 22](#).

M20 [S.I. 2001/1077](#); revoked by article 9(1) of [S.I. 2011/1027](#) subject to savings set out in article 9(2).

Remuneration for civil legal services: inquests **E+W**

9.—(1) This regulation applies to the payment by the Lord Chancellor of remuneration for civil legal services provided in relation to inquests.

(2) The Lord Chancellor must pay remuneration to the provider of civil legal services in relation to an inquest in the form of legal help in accordance with—

- (a) the relevant contract; and
- (b) the fees and rates in Part 1 and Part 2 of Schedule 1 that are applicable to the Category Definition most relevant to the circumstances giving rise to the inquest.

(3) The Lord Chancellor must pay remuneration for civil legal services provided in relation to an inquest in the form of other legal services in accordance with—

- (a) the relevant contract; and
- (b) subject to paragraph (4), the rates set out in Schedule 4.

(4) If, due to exceptional circumstances, the Lord Chancellor considers it reasonable to do so, instead of paying remuneration in accordance with the rates set out in Schedule 4, the Lord Chancellor may pay remuneration—

- (a) to organisations, in accordance with the payment rates set out in Section 7 of the 2010 VHCC Contract (for organisations); and
- (b) to self-employed advocates, in accordance with the payment rates set out in Section 7 of the 2010 VHCC Contract (for self-employed advocates).

(5) In paragraph (4), “exceptional circumstances” must relate to one or more of the following—

- (a) the unusual length of the inquest;
- (b) the volume of material; or
- (c) the complexity of the issues.

(6) In paragraph (4), “the 2010 VHCC Contract (for organisations)” and “the 2010 VHCC Contract (for self-employed advocates)” means the contracts so named between the Lord Chancellor and a person for the provision of representation for the purposes of criminal proceedings under section 16 of the Act ^{M21}.

Marginal Citations

- M21** The contracts 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.

Remuneration: expert services **E+W**

10. The Lord Chancellor must pay remuneration to a provider in relation to expert services incurred as a disbursement by the provider in accordance with—

- (a) the relevant contract; and
- (b) the provisions of Schedule 5.

Payments on account by the Lord Chancellor direct to barristers in independent practice **E+W**

11.—(1) Subject to paragraphs (5) and (6), where a provider has instructed a barrister in independent practice to carry out work that is not Controlled Work, the barrister may apply to the Lord Chancellor on a form approved by the Lord Chancellor for payment on account of remuneration for the civil legal services provided by the barrister where any of the conditions in paragraphs (2) to (4) apply.

(2) The first condition is that a period of 12, 24 or 36 months has elapsed since the date that the Director determined under section 9 of the Act that the legally aided person qualified for civil legal services.

(3) The second condition is that—

- (a) the determination referred to in paragraph (2) related to proceedings that have continued for more than 12 months;
- (b) it appears unlikely that an order will be made for the costs of the case to be assessed within the next 12 months; and
- (c) delay in the assessment of costs will cause hardship to the barrister.

(4) The third condition is that the proceedings to which the determination referred to in paragraph (2) related have concluded or the provider is otherwise entitled to have the costs of the case assessed but the barrister has not been paid for at least six months since the provider was first so entitled.

(5) An application under paragraph (2) must be made within the period—

- (a) beginning two months before one of the periods of time referred to in paragraph (2); and
- (b) ending two months after that period.

(6) An application under paragraph (1) may not be made in respect of advocacy services in family proceedings.

E+W

12.—(1) Where an application is made in accordance with regulation 11, the Lord Chancellor may pay the barrister up to 75% of the amount that the Lord Chancellor considers to be the barrister's reasonable fees.

(2) In deciding how much to pay under paragraph (1), the Lord Chancellor must take into account—

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- (a) any amounts that the Lord Chancellor has previously paid on account to the barrister; and
 - (b) any cost limitation to which the determination referred to in regulation 11(2) is subject.
- (3) If a barrister's final fees are assessed at an amount less than the amount that the Lord Chancellor has paid to the barrister on account, the barrister must pay the difference to the Lord Chancellor.

Signed by authority of the Lord Chancellor

Ministry of Justice
25th February 2013

McNally
Minister of State

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SCHEDULE 1 **E+W**

Regulations 6, 8(3) and 9(2)

.....

SCHEDULE 2 **E+W**

Regulation 7

Remuneration of barristers in independent practice in relation to work that is not Controlled Work, advocacy services in family proceedings or other legal services in relation to inquests

.....

SCHEDULE 3 **E+W**

Regulation 8(2)

Family Advocacy Scheme: Fees and Rates

.....

SCHEDULE 4 **E+W**

Regulation 9(3) and (4)

Inquests

Interpretation **E+W**

1.—(1) Unless different provision is made, words and expressions used in this Schedule have the same meaning as in the relevant contact.

(2) In this Schedule, “Senior Solicitor” means a solicitor with over eight years' qualified experience.

Table 1: Provider Hourly Rates

<i>Item</i>	<i>Grade</i>	<i>Inside (hourly rate)</i>	<i>London</i>	<i>Outside (hourly rate)</i>	<i>London</i>
Preparation	Senior Solicitor	£75.27		£71.55	
	Other Solicitor	£63.80		£60.75	
	Trainee Solicitor	£45.90		£40.17	
Conference counsel	with Senior Solicitor	£75.27		£71.55	
	Other Solicitor	£63.80		£60.75	
	Trainee Solicitor	£45.90		£40.17	
Attendance at hearing	Senior Solicitor	£57.05		£57.05	

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	Other Solicitor	£45.90	£45.90
	Trainee Solicitor	£27.68	£27.68
Advocacy solicitor)	(by Senior Solicitor	£87.08	£87.08
	Other Solicitor	£75.60	£75.60
Travel and waiting	Senior Solicitor	£22.28	£22.28
	Other Solicitor	£22.28	£22.28
	Trainee Solicitor	£11.25	£11.25

Table 2: Barrister rates		
<i>Item</i>	<i>Category</i>	<i>Fixed rate</i>
Brief fee	Junior Counsel	£900
	Queen's Counsel	£1800
Refresher fee	Junior Counsel	£450
	Queen's Counsel	£630

SCHEDULE 5 E+W		Regulation 10
Experts' fees and rates		
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EXPLANATORY NOTE

(This note is not part of the Regulations)

The Civil Legal Aid (Remuneration) Regulations 2013 (“the Regulations”) make provision about the payment by the Lord Chancellor to persons who provide civil legal services under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) (“the Act”).

The fees and rates set out in the Regulations are subject to definitions and payment schemes contained in the following contracts made between the Lord Chancellor and a provider of civil legal services under Part 1 of the Act, the relevant contract in any particular case being the contract which governs the provision of civil legal services for which the claim for remuneration relates: the 2010 Standard Civil Contract, the 2013 Standard Civil Contract and the 2013 Individual Case Contract (Civil).

The Regulations do not apply to the payment of remuneration under contracts awarded as part of a pilot which provides for remuneration by way of one or more standard fees. Other than regulations 7 and 10, the Regulations do not apply to contracts which have been awarded after competitive tendering as to price has taken place. Other than regulation 10, the Regulations do not apply to the 2013 Individual Case Contract (High Cost Civil).

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