
STATUTORY INSTRUMENTS

2013 No. 614

**The Criminal Legal Aid (Determinations by a Court
and Choice of Representative) Regulations 2013**

PART 2

Determinations by a Court under section 16 of the Act

Applications

4.—(1) An application for a determination under section 16 of the Act (representation for criminal proceedings) made to the Crown Court must be made orally to the court.

(2) An application for a determination under section 16 of the Act made to the High Court or the Court of Appeal must be made—

- (a) orally to the court; or
- (b) in writing to an officer of the court.

(3) An application for a determination made in accordance with paragraph (2)(b) must be made in a form specified by the Lord Chancellor.

General

5.—(1) When the court makes a determination under section 16 of the Act in accordance with any of regulations 6 to 8, the court must—

- (a) issue a representation order recording that determination; and
- (b) send a copy of the representation order to the individual and any provider named in the representation order.

(2) Where these Regulations provide that a court is authorised to make a determination under section 16 of the Act, the power to make a determination may be exercised by the court or an officer of the court.

Determinations by the Crown Court

6. On the application of an individual, the Crown Court may make a determination under section 16 of the Act as to whether an individual qualifies for representation for the purposes of criminal proceedings before the Crown Court—

- (a) which are described in section 14(g) of the Act (criminal proceedings);
- (b) which arise out of an alleged failure to comply with an order of the Crown Court and it appears to the court that there is no time to instruct a provider; or
- (c) where the individual is brought before the court under section 81 of the Senior Courts Act 1981(1) in pursuance of a warrant issued by the Crown Court.

Determinations by the High Court

7.—(1) On the application of an individual, the High Court may make a determination under section 16 of the Act as to whether an individual qualifies for representation for the purposes of criminal proceedings before the High Court in relation to an appeal by way of case stated from a decision of the magistrates' court or the Crown Court.

(2) On the application of an individual, or of its own motion, the High Court may make a determination under section 16 of the Act as to whether an individual qualifies for representation for the purposes of proceedings before the High Court, or proceedings before the Supreme Court on appeal from the High Court, described in—

- (a) section 14(a) to (g) of the Act, other than proceedings under paragraph (1); or
- (b) regulation 9(r) of the General Regulations.

Determinations by the Court of Appeal

8.—(1) On the application of an individual, or of its own motion, the Court of Appeal may make a determination under section 16 of the Act as to whether an individual qualifies for representation for the purposes of any criminal proceedings before the Court of Appeal, or criminal proceedings before the Supreme Court on appeal from the Court of Appeal.

(2) A determination made in accordance with paragraph (1)—

- (a) must not be made until service of an appeal notice in respect of the proceedings has taken place; and
- (b) may specify the stage of the proceedings at which the determination is to take effect.

Withdrawal of determinations by the court

9.—(1) The court before which any criminal proceedings other than those listed in regulation 9(a), (b) and (d) to (i) of the General Regulations are taking place may withdraw a determination under section 16 of the Act that an individual qualifies for representation where—

- (a) the individual declines to accept the determination in the terms which are offered;
- (b) the individual requests that the determination is withdrawn; or
- (c) the provider named in the representation order which recorded the original determination declines to continue to represent the individual.

(2) Where the court withdraws a determination—

- (a) the court must provide written notification of the withdrawal to the individual in whose favour the original determination was made and to the provider named in the representation order which records the determination; and
- (b) the Director must provide written notification of the withdrawal to any advocate instructed in the proceedings.