
STATUTORY INSTRUMENTS

2013 No. 9

The Criminal Legal Aid (General) Regulations 2013

PART 4

Advice and assistance for criminal proceedings

General

11.—(1) This Part makes provision about the making and withdrawal of determinations by the Director under section 15 of the Act (advice and assistance for criminal proceedings).

(2) Prescribed advice and assistance is to be made available to an individual described in section 15(2) of the Act if—

- (a) the conditions prescribed in regulation 12 are met; and
- (b) the Director has determined that the individual qualifies for advice and assistance in accordance with these Regulations (and has not withdrawn the determination).

(3) For the purposes of this regulation “prescribed advice and assistance” means advice and assistance that is available in accordance with the 2010 Standard Crime Contract.

Prescribed conditions

12.—(1) The conditions set out in paragraph (2) are prescribed for the purposes of section 15(1) of the Act.

(2) The conditions are that an individual must—

- (a) be the subject of an investigation which may lead to criminal proceedings;
- (b) be the subject of criminal proceedings;
- (c) require advice and assistance regarding an appeal or potential appeal against the outcome of any criminal proceedings or an application to vary a sentence;
- (d) require advice and assistance regarding a sentence;
- (e) require advice and assistance regarding an application or potential application to the Criminal Cases Review Commission⁽¹⁾;
- (f) require advice and assistance regarding the individual’s treatment or discipline in a prison, young offender institution or secure training centre (other than in respect of actual or contemplated proceedings regarding personal injury, death or damage to property);
- (g) be the subject of proceedings before the Parole Board⁽²⁾;
- (h) require advice and assistance regarding representation in relation to a mandatory life sentence or other parole review;

(1) The Criminal Cases Review Commission was established by section 8 of the Criminal Appeal Act 1995 (c. 35).

(2) The Parole Board is constituted under section 239 of the Criminal Justice Act 2003 (c. 44).

- (i) be a witness in criminal proceedings and require advice and assistance regarding self-incrimination;
 - (j) be a volunteer; or
 - (k) be detained under Schedule 7 to the Terrorism Act 2000⁽³⁾.
- (3) In this regulation “volunteer” means an individual who, for the purposes of assisting with an investigation, without having been arrested—
- (a) attends voluntarily at a police station, customs office or any other place where a constable is present; or
 - (b) accompanies a constable to a police station, customs office or any other such place.

Interests of justice

13. When making a determination under section 15 of the Act, the Director must have regard, in particular, to the interests of justice.

Applications

14. An application for advice and assistance for criminal proceedings must be made—
- (a) in accordance with the requirements of the 2010 Standard Crime Contract for the Unit of Work which is the subject of the application; and
 - (b) in a form specified by the Lord Chancellor, in circumstances where the 2010 Standard Crime Contract requires an application form to be completed.

Determinations

15.—(1) The Director must determine whether an individual qualifies under section 15 of the Act for advice and assistance for criminal proceedings in accordance with—

- (a) section 21 of the Act (financial resources) and regulations made under that section⁽⁴⁾; and
- (b) the qualifying criteria set out in the 2010 Standard Crime Contract.

(2) A determination that an individual qualifies under section 15 of the Act for advice and assistance for criminal proceedings must specify any limitations and conditions to which the determination is subject.

(3) A determination that an individual qualifies under section 15 of the Act for advice and assistance for criminal proceedings may specify that the determination is to be treated as having effect from a date which is no later than the date on which the application was received.

Withdrawal

16. The Director may withdraw a determination under section 15 of the Act where—
- (a) the services to which the determination relates have been provided;
 - (b) the proceedings which are the subject of the determination have concluded;
 - (c) the individual consents;
 - (d) the individual has died; or
 - (e) the individual no longer qualifies for the advice and assistance to be made available by the determination in accordance with—

⁽³⁾ 2000 c. 11.

⁽⁴⁾ Paragraph 6 of Schedule 3 to the Act (legal aid for legal persons: financial resources) applies section 21 for the purposes of regulations made under paragraph 4 of that Schedule as if the references to an individual included a legal person.

- (i) section 21 of the Act and regulations made under that section; or
- (ii) the qualifying criteria set out in the 2010 Standard Crime Contract.

Appeal

17. An individual may appeal to an Independent Funding Adjudicator appointed by the Lord Chancellor under section 2 of the Act (arrangements) against a decision of the Director that—

- (a) the interests of justice do not require advice or assistance to be made available to an individual under these Regulations; or
- (b) the qualifying criteria set out in the 2010 Standard Crime Contract are not met.