

2017 No. 311

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Criminal Legal Aid (Standard Crime Contract)
(Amendment) Regulations 2017**

<i>Made</i> - - - -	<i>7th March 2017</i>
<i>Laid before Parliament</i>	<i>10th March 2017</i>
<i>Coming into force</i> - -	<i>1st April 2017</i>

The Lord Chancellor makes the following Regulations(a) in exercise of the powers conferred by sections 2(3), 13(4) and (5), 15(5) to (7) and (9), 21(2), and 41(2) and (3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(b).

Citation and commencement

1. These Regulations may be cited as the Criminal Legal Aid (Standard Crime Contract) (Amendment) Regulations 2017 and come into force on 1st April 2017.

Amendments to the Criminal Legal Aid (General) Regulations 2013

2.—(1) The Criminal Legal Aid (General) Regulations 2013(c) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) for the definition of “Unit of Work” substitute—

““Unit of Work” has the meaning given in paragraph 1.3 of the Specification to the 2017 Standard Crime Contract”, and

(b) in the definition of “2010 Standard Crime Contract”, for “2010 Standard Crime Contract”, substitute “2017 Standard Crime Contract”.

(3) In each of the following places, for “2010 Standard Crime Contract” substitute “2017 Standard Crime Contract”—

- (a) regulation 8(b) (applications);
- (b) regulation 11(3) (general);
- (c) regulation 14 (applications), in both places it occurs;
- (d) regulation 15(1)(b) (determinations);
- (e) regulation 16(e)(ii) (withdrawal), and
- (f) regulation 17(b) (appeal).

(a) 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.

(b) 2012 c. 10.

(c) S. I. 2013/9, amended by S.I. 2013/2790; there are other amending instruments but none is relevant.

Amendment to the Criminal Legal Aid (Remuneration) Regulations 2013

3.—(1) The Criminal Legal Aid (Remuneration) Regulations 2013(a) are amended as follows.

(2) In regulation 3(5) (scope), omit “9”.

(3) After regulation 3(5), insert—

“(5A) Regulation 9 applies to proceedings in magistrates’ courts, to proceedings in the Crown Court and to proceedings in the Court of Appeal.”.

(4) In regulation 8 (claims for fees for certain categories of work to which the Standard Crime Contract applies), in both places it occurs, for “2010 Standard Crime Contract”, substitute “2017 Standard Crime Contract”.

(5) In Schedule 4 (Rates payable for the claims specified in Regulation 8)—

(a) in paragraph 1(a) (interpretation of this Schedule), for “2010 Standard Crime Contract”, substitute “2017 Standard Crime Contract”;

(b) in paragraph 2(8) (work conducted at the Police Station: Police Station advice and assistance), for “2010 Standard Crime Contract”, substitute “2017 Standard Crime Contract”;

(c) in paragraph 3(4) (work conducted outside the Police Station)—

(i) for the words from “the magistrates’ court” to “bail conditions”, substitute “magistrates’ courts in connection with an application relating to police bail”;

(ii) for the heading of the table, substitute “Advocacy Assistance in magistrates’ courts in connection with an application relating to police bail”, and

(d) in paragraph 7(2) (representation in proceedings prescribed as criminal proceedings under section 14(h) of the Act), after “sub-paragraph”, insert “and this Unit of Work is subject to an Upper Limit of £1,368.75.”.

Amendment to the Criminal Legal Aid (Financial Resources) Regulations 2013

4. In regulation 5(2) (Advice and assistance: exceptions from requirement to make a determination in respect of an individual’s financial resources) of the Criminal Legal Aid (Financial Resources) Regulations 2013(b), for each reference to “2010 Standard Crime Contract”, substitute “2017 Standard Crime Contract”.

Transitional Provision

5.—(1) These Regulations do not apply to services made available pursuant to a determination made before 1st April 2017.

(2) In this regulation, “determination” means a determination under section 13 (advice and assistance for individuals in custody), 15 (advice and assistance for criminal proceedings) or 16 (representation for criminal proceedings) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

7th March 2017

Oliver Heald
Minister of State
Ministry of Justice

(a) S.I. 2013/435. Relevant amending instruments are: S.I. 2013/2803, 2015/325, 2015/1416 and 2016/313; there are other amending instruments but none are relevant.

(b) S.I. 2013/471, to which there are amendments not relevant to these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument amends the Criminal Legal Aid (General) Regulations 2013 (S.I. 2013/9) (“the General Regulations”), the Criminal Legal Aid (Financial Resources) Regulations 2013 (S.I. 2013/471) (“the Financial Regulations”), and the Criminal Legal Aid (Remuneration) Regulations 2013 (S.I. 2013/435) (“the Remuneration Regulations”). The General Regulations and Financial Regulations together prescribe circumstances in which an individual qualifies for criminal legal aid under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“the Act”). The Remuneration Regulations make provision for the funding and remuneration of services made available under sections 13, 15 and 16 of the Act.

Regulations 2, 3(4), 3(5)(a), 3(5)(b) and 4 amend the General Regulations, the Remuneration Regulations and the Financial Regulations to reflect the replacement of the 2010 Standard Crime Contract with the 2017 Standard Crime Contract on 1st April 2017. The Standard Crime Contract governs the contractual relationship between providers (individual legal professionals) of criminal legal aid services and the Lord Chancellor.

Regulation 9 of the Remuneration Regulations provides that, where representation is provided in connection with proceedings in the Crown Court, providers of legal aid services must not accept payment for work done in connection with those proceedings from sources other than the Lord Chancellor. Regulations 3(2) and 3(3) extend this prohibition on payment from other sources to work done in connection with proceedings in magistrates’ courts.

Section 14(h) of the Act provides that the Lord Chancellor may designate certain proceedings to be criminal proceedings for the purposes of the Act. Payment for work done in connection with proceedings that are so designated is subject to an upper limit, in respect of each matter, of £1,368.75 where the work relates to proceedings in the Crown Court. Regulation 3(5)(d) makes amendments to the Remuneration Regulations so that where proceedings in the High Court, County Court or Family Court are designated as criminal proceedings under Section 14(h) of the Act, work done in connection with those proceedings will be subject to the same upper limit.

Chapter 1 of Part 4 of the Policing and Crime Act 2017 (c. 3), when commenced, will introduce new proceedings relating to police bail. Payment for work done in connection with these proceedings will be made under paragraph 3(4) of Schedule 4 to the Remuneration Regulations. Regulation 3(5)(c) amends that paragraph and the heading of the table in that paragraph so that it refers to all applications relating to police bail. It currently refers only to applications to vary the conditions of police bail.

Regulation 5 provides that these Regulations will apply to work done pursuant to determinations for criminal legal aid made on or after 1st April 2017 and will not affect work done pursuant to a determination made before that date.

A full impact assessment has not been produced for this instrument as no significant impact on the private or voluntary sectors is foreseen.

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