

This Statutory Instrument has been made to correct an error in S.I. 2023/366 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2023 No. 542

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Criminal Legal Aid (Remuneration) (Amendment) (No. 3)
Regulations 2023**

Made - - - - at 12.30 p.m. on 15th May 2023

Laid before Parliament at 4.30 p.m. on 15th May 2023

Coming into force - - 16th May 2023

The Lord Chancellor makes these Regulations in exercise of the powers conferred by sections 2(3) and 41(1) to (3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(a).

Citation, commencement and extent

1. These Regulations—

- (a) may be cited as the Criminal Legal Aid (Remuneration) (Amendment) (No. 3) Regulations 2023;
- (b) come into force on 16th May 2023;
- (c) extend to England and Wales.

Revocation of the Criminal Legal Aid (Remuneration) (Amendment) (No. 2) Regulations 2023

2. The Criminal Legal Aid (Remuneration) (Amendment) (No. 2) Regulations(b) are revoked and the amendments made by regulation 2 of those Regulations are omitted.

Amendment of Schedule 1 to the Criminal Legal Aid (Remuneration) Regulations 2013

3.—(1) Schedule 1 (Advocates' Graduated Fee Scheme) to the Criminal Legal Aid (Remuneration) Regulations 2013(c) is amended as follows.

- (2) After paragraph 18 (fees for wasted preparation), insert—

(a) 2012 c. 10.
(b) S.I. 2023/366.
(c) S.I. 2013/435.

“Additional preparation fee

18A.—(1) This paragraph applies in respect of any case on indictment in the Crown Court, in respect of which a graduated fee is payable under Part 2 or Part 3, other than a guilty plea.

(2) In any case to which this paragraph applies, a fee of £62 is payable to a trial advocate in respect of preparation in addition to any other fee which is payable under this Schedule.”.

(3) At the end of paragraph (b) of paragraph 26(4A)(a) (payment of fees to trial advocate), insert “, and for this purpose “trial” excludes any cross-examination or re-examination to which paragraph 13A(3)(b) of Schedule 1 applies”.

Application

4.—(1) These Regulations apply to cases where—

- (a) a determination under section 16 (representation for criminal proceedings) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is made on or after 17th April 2023, and
- (b) the main hearing takes place on or after 16th May 2023.

(2) In this regulation, “main hearing” has the meaning given in regulation 2(1) of the Criminal Legal Aid (Remuneration) Regulations 2013(c).

Mike Freer
Parliamentary Under Secretary of State
Ministry of Justice

At 12.30 p.m. on 15th May 2023

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Criminal Legal Aid (Remuneration) (Amendment) (No. 2) Regulations 2023 (S.I. 2023/366) (the “Amendment Regulations”) and amend the Criminal Legal Aid (Remuneration) Regulations 2013 (S.I. 2013/435) (the “Remuneration Regulations”) in order to correct an error in the Amendment Regulations.

Regulation 2 revokes the Amendment Regulations and omits the amendments made by regulation 2 of the Amendment Regulations.

Regulation 3(2) amends Schedule 1 to the Remuneration Regulations by inserting a new paragraph 18A, which provides for an additional preparation fee of £62 to be payable to a trial advocate in respect of preparation for a case which goes to trial or which is a cracked trial.

Regulation 3(3) amends paragraph 26(4A)(b) of Schedule 1 to the Remuneration Regulations to clarify that the trial advocate to whom fees are to be paid in accordance with that paragraph does not include an advocate who only attends certain cross-examinations or re-examinations.

Regulation 4 governs the application of these Regulations.

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

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- (a) Paragraph 26 was amended, including by the insertion of sub-paragraph (4A), by S.I. 2015/882.
 - (b) Paragraph 13A was inserted by S.I. 2023/97.
 - (c) The definition of “main hearing” was inserted by S.I. 2015/882.

£4.90

<http://www.legislation.gov.uk/id/uksi/2023/542>

ISBN 978-0-34-824803-6



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