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STATUTORY INSTRUMENTS

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**2023 No. 745**

**The Criminal and Civil Legal Aid  
(Amendment) Regulations 2023**

**Amendments to the Civil Legal Aid (Financial Resources and Payment for Services)  
Regulations 2013**

**3.—**(1) The Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013<sup>(1)</sup> are amended as follows.

(2) In regulation 5 (exceptions from requirement to make a determination in respect of an individual's financial resources)—

(a) in paragraph (1), renumber sub-paragraph (m) as inserted by section 25(4) of the Nationality and Borders Act 2022 as sub-paragraph (ma)<sup>(2)</sup>;

(b) after sub-paragraph (1)(b), insert—

“(ba) legal representation or family help (higher) where the individual is a child;”;

(c) after sub-paragraph (1)(n), insert—

“(na) legal help in relation to an inquest where the Director, having considered the available evidence, considers that if the individual were to make an application under s10(2) or (4) of the Act for representation at the inquest, the application would be reasonably likely to succeed.”;

(d) in sub-paragraph 1(o), for paragraph (ii), substitute—

“(ii) the applicant makes or proposes to make an application to appeal to either the First-tier Tribunal in accordance with section 51 of the Children and Families Act 2014 or the Education Tribunal for Wales in accordance with section 70 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, in respect of that child;”;

(e) in sub-paragraph 1(p)—

(i) after the first instance of “First-tier Tribunal (Special Educational Needs and Disability)”, insert “or the Education Tribunal for Wales”;

(ii) for paragraph (ii), substitute—

“(ii) the applicant makes an application to either the First-tier Tribunal in accordance with section 51 of the Children and Families Act 2014 or to the Education Tribunal for Wales in accordance with section 70 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, in respect of that child; and”;

(f) in sub-paragraph 1(q)—

(i) for paragraph (ii), substitute—

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(1) [S.I. 2013/480](#); relevant amending instruments are [S.I. 2015/1416](#), [S.I. 2019/519](#), [S.I. 2021/1423](#), [S.I. 2023/45](#).

(2) Section 25(4) of the Nationality and Borders Act 2022 will insert a paragraph (m) into regulation 5(1) of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013. Regulation 5(1) of those Regulations already contain paragraph (m) and this renumbering is to avoid confusion.

- “(ii) the applicant making or proposing to make an application to appeal to the First-tier Tribunal or to the Education Tribunal for Wales is a person described in paragraphs (a), (b) or (c) of section 80(6) of the Children and Families Act 2014 or paragraphs (a), (b) or (c) of section 83(5) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, and that person is acting on behalf of the young person; and”;
- (ii) for paragraph (iii), substitute—
  - “(iii) the young person cannot make the application to the First Tier Tribunal or the Education Tribunal for Wales themselves because at the time of the application they lack capacity within the meaning given in section 2 of the Mental Capacity Act 2005; and”;
- (g) in sub-paragraph 1(r)—
  - (i) after the first instance of “First-tier Tribunal (Special Educational Needs and Disability)”, insert “or the Education Tribunal for Wales”;
  - (ii) for paragraph (ii) substitute—
    - “(ii) the applicant making the application to appeal to the First-tier Tribunal or the Education Tribunal for Wales is a person described in paragraphs (a), (b) or (c) of section 80(6) of the Children and Families Act 2014 or paragraphs (a), (b) or (c) of section 83(5) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, and that person is acting on behalf of the young person;”;
  - (iii) for paragraph (iii) substitute—
    - “(iii) the young person cannot make the application to the First Tier Tribunal or the Education Tribunal for Wales themselves because at the time of the application they lack capacity within the meaning given in section 2 of the Mental Capacity Act 2005; and”;
- (h) after sub-paragraph (1)(r), insert—
  - “(s) legal representation in a matter described in paragraph 9(1) (inherent jurisdiction of High Court in relation to children and vulnerable adults) of Part 1 of Schedule 1 to the Act to the extent that the matter concerns the withdrawal or withholding of life-sustaining treatment in respect of a person who is a child at the date of the application, and the applicant is—
    - (aa) a parent of that child; or
    - (bb) a person with parental responsibility for that child.”.
- (3) Omit regulation 10.
- (4) In regulation 16 (resources to be treated as the individual's resources)—
  - (a) in paragraph (3), for “(other than legal representation in family proceedings)”, substitute “or family help (higher)”; and
  - (b) omit paragraph (7).