

## SCHEDULE 2

Article 4

### CRIMINAL DEFENCE SERVICE: TRANSITIONAL PROVISIONS AND SAVINGS

**1.** In this Schedule:

“the 1988 Act” means the Legal Aid Act 1988(1);

“authorised” means authorised under regulation 15 of the Legal Advice and Assistance Regulations 1989(2) (clients resident abroad);

“the Commission” means the Legal Services Commission established under section 1 of the Act;

“funded services” means services funded by the Commission under sections 4 to 11 of the Act as part of the Community Legal Service;

“solicitor” includes a firm of solicitors.

**2.** Nothing in the provisions commenced by this Order or in the transitional provisions of this Order shall have effect:

(a) for the purposes of the application to funded services, by virtue of the Community Legal Service (Funding) Order 2000(3), of the following regulations made under the 1988 Act:

(i) the Civil Legal Aid (General) Regulations 1989(4);

(ii) the Legal Advice and Assistance Regulation 1989;

(iii) the Legal Aid in Family Proceedings (Remuneration) Regulations 1991(5); or

(iv) the Legal Aid in Civil Proceedings (Remuneration) Regulations 1994(6);

(b) subject to paragraph 4 of this Schedule, and to the provisions of any contract, in relation to any work carried out under a legal aid order or legal aid certificate dated prior to 2nd April 2001;

(c) in relation to assistance by way of representation under Part III of the 1988 Act:

(i) where the application is signed prior to 2nd April 2001 and received by the Commission prior to 10th April 2001; or

(ii) which is granted by a solicitor prior to 2nd April 2001 and notified to the Commission prior to 10th April 2001;

(d) in relation to advice and assistance under Part III of the 1988 Act (other than assistance by way of representation) where the application is signed or is authorised prior to 2nd April 2001;

(e) for the purposes of assessment for payment, where both a legal aid order under the 1988 Act and a representation order under the Act exist, in proceedings which form part of a single case in that they relate to one or more charges or informations which are preferred or laid at the same time, or which are founded on the same facts, or which form or are part of a series of offences;

(f) in relation to any work carried out before 2nd April 2001 and paid for by the Lord Chancellor other than under the terms of any contract; or

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(1) 1988 c. 34. This Act is repealed by Part I of Schedule 15 to the Access to Justice Act 1999, subject to immaterial exceptions, and to transitional provisions and savings contained in S.I. 2000/774 and in this Order.

(2) S.I. 1989/340. These Regulations were amended by S.I. 2001/829. Together with S.I. 1989/339, 1991/2038 and 1994/228, they are revoked by virtue of the repeal of the enabling provisions in the Legal Aid Act 1988.

(3) S.I. 2000/627, as amended by S.I. 2000/1541 and 2001/831.

(4) S.I. 1989/339. These Regulations were most recently amended by S.I. 2000/451 and 2001/617.

(5) S.I. 1991/2038, as amended by S.I. 2001/830.

(6) S.I. 1994/228.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(g) for the application of paragraphs 10(3)(b), 33, 34 and 36 of Schedule 4 to the Act to work carried out under the provisions of the 1988 Act.

3. Notwithstanding the provisions of article 1(2)(a) of the Access to Justice Act 1999 (Commencement No. 3, Transitional Provisions and Savings) Order 2000(7) the Commission shall fund applications for judicial review or habeas corpus relating to criminal investigations or proceedings as part of the Community Legal Service.

4.—(1) Subject to the provisions of any contract, any claim for payment for work carried out under the provisions of the 1988 Act shall be submitted so as to be received by the Commission no later than five months after the completion of the work for which payment is claimed.

(2) Subject to sub-paragraph (3), the Commission may refuse any claim for payment mentioned in sub-paragraph (1) which is received late without good reason.

(3) No claim for payment shall be refused unless the solicitor has been given a reasonable opportunity to show why it should not be refused.

5. Where an application for a legal aid order under the 1988 Act is considered on or after 2nd April 2001, it shall be treated as an application for a representation order under section 14 of the Act.