STATUTORY INSTRUMENTS

2015 No. 1678

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Civil and Criminal Legal Aid (Amendment) (No.2) Regulations 2015

Made - - - - 9th September 2015

Laid before Parliament 11th September 2015

Coming into force in accordance with regulation 1

The Lord Chancellor makes the following Regulations(**1**) in exercise of the powers conferred by sections 2(3), 12(2) and (3), 23(1), (2) and (8), 25(3), 27(6)(c) and (e), 30(2) and 41(1), (2) and (3)(b) and (c) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(**2**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Civil and Criminal Legal Aid (Amendment) (No.2) Regulations 2015.

(2) These Regulations come into force for the purposes of—

(a) regulations 3, 5, 6, and 8 to 10 on 5th October 2015, and

(b) regulations 2, 4 and 7 on 1st November 2015.

(3) In these Regulations, "the Criminal Remuneration Regulations" means the Criminal Legal Aid (Remuneration) Regulations 2013(**3**).

Amendments to the Civil Legal Aid (Procedure) Regulations 2012

2.—(1) The Civil Legal Aid (Procedure) Regulations 2012(**4**) are amended as follows.

(2) In regulation 2 (interpretation)(**5**), in the definition beginning "2010 Standard Civil Contract", for "and "2014 Standard Civil Contract"" substitute ", "2014 Standard Civil Contract" and "2015 Standard Civil Contract"".

(**1**) Section 42(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) provides that in Part 1 of that Act "prescribed" means prescribed by regulations and "regulations" means regulations made by the Lord Chancellor.
(**2**) 2012 c. 10.
(**3**) S.I. 2013/435.
(**4**) S.I. 2012/3098.
(**5**) Amended by S.I. 2014/1824. There is another amendment not relevant to these Regulations.

(3) In each of the following, for "or 2014 Standard Civil Contract" substitute ", 2014 Standard Civil Contract or 2015 Standard Civil Contract"—

(a) regulation 20 (interpretation)(**6**) in the definition of "relevant category";

(b) paragraph (1)(c)(**7**) of regulation 23 (the application);

(c) paragraph (4)(c)(**8**) of regulation 31 (the application), and

(d) paragraph (1) of regulation 67 (the application)(**9**).

Amendment to the Criminal Legal Aid (General) Regulations 2013

3. In regulation 6(1)(a) of the Criminal Legal Aid (General) Regulations 2013 (transfer of documents)(**10**) omit ", committed or transferred".

Amendments to the Civil Legal Aid (Remuneration) Regulations 2013

4.—(1) The Civil Legal Aid (Remuneration) Regulations 2013(**11**) are amended as follows.

(2) In regulation 2(1) (interpretation)(**12**)—

(a) in the definition of "Category Definition", for "or the 2014 Standard Civil Contract" substitute ", the 2014 Standard Civil Contract or the 2015 Standard Civil Contract";

(b) in the definition of "the relevant contract", for "or the 2014 Standard Civil Contract (Welfare Benefits)" substitute ", the 2014 Standard Civil Contract (Welfare Benefits) or the 2015 Standard Civil Contract", and

(c) in the definition beginning "the 2010 Standard Civil Contract", for "and "the 2014 Standard Civil Contract (Welfare Benefits)"" substitute ", "the 2014 Standard Civil Contract (Welfare Benefits)" and "the 2015 Standard Civil Contract"".

(3) In paragraph (3)(j) of regulation 5A (remuneration for civil legal services: judicial review)(**13**), for "or the 2014 Standard Civil Contract (Welfare Benefits)" substitute ", the 2014 Standard Civil Contract, the 2014 Standard Civil Contract (Welfare Benefits) or the 2015 Standard Civil Contract".

Amendments to the Criminal Remuneration Regulations

5.—(1) The Criminal Remuneration Regulations are amended as follows.

(2) In each of the following omit "committed or"—

(a) the entry for regulation 10 in the Table of Contents;

(b) regulation 5(2) (claims for fees and disbursements by litigators – Crown Court);

(c) the heading of regulation 10;

(d) regulation 10(1) (cases sent for trial at the Crown Court);

(e) regulation 14(1) (interim payment of disbursements);

(**6**) Amended by S.I. 2014/1824.
(**7**) Amended by S.I. 2014/1824.
(**8**) Amended by S.I. 2014/1824.
(**9**) Amended by S.I. 2014/1824.
(**10**) S.I. 2013/9, to which there are amendments not relevant to these Regulations.
(**11**) S.I. 2013/422.
(**12**) Amended by S.I. 2014/7, 2014/1824 and 2015/325 and by Part 3 of S.I. 2015/1369, coming into force 11th January 2016. There are other amendments not relevant to these Regulations.
(**13**) Inserted by S.I. 2014/607, substituted by S.I. 2015/898 and amended by Part 3 of S.I. 2015/1369, coming into force 11th January 2016.

(f) sub-paragraphs (4)(a) and (7)(a) of paragraph 2 (application) and paragraphs 6(1) (scope of Part 3)(**14**) and 9(1) (scope of Part 4)(**15**) of Schedule 1 (advocates' graduated fee scheme), and

(g) paragraphs 4(1) (scope)(**16**) and 10(1) (scope of Part 3)(**17**) of Schedule 2 (litigators' graduated fee scheme).

(3) In regulations 10(1) and 14(1) omit "or transferred".

(4) In regulation 17A(2) (interim payment of litigators' fees)(**18**), for sub-paragraph (a) substitute —

"(a) after the first hearing at which the assisted person enters a plea of not guilty;".

(5) In regulation 20(2)(b) (staged payments in long Crown Court proceedings) omit "committal, or" and "or transfer".

(6) In paragraph 1(1) of Schedules 1 and 2 (interpretation)(**19**), in the definition of "cracked trial"—

(a) in paragraph (a), for "a plea and case management hearing takes place" substitute "the assisted person enters a plea of not guilty to one or more counts at the first hearing at which he or she enters a plea";

(b) in sub-paragraph (a)(ii)(aa), for "plea and case management hearing" substitute "first hearing at which he or she entered a plea";

(c) in sub-paragraph (a)(ii)(bb), for "plea and case management hearing" substitute "first hearing at which the assisted person entered a plea", and

(d) in paragraph (b), for "plea and case management hearing taking place" substitute "hearing at which the assisted person enters a plea".

(7) In Schedules 1 and 2, in paragraph 1—

(a) in sub-paragraph (3) omit "committal or", and

(b) in sub-paragraph (6) for "committal" substitute "sending".

(8) In each of the following, for "the plea and case management hearing", wherever it appears, substitute "the first hearing at which the assisted person enters a plea"—

(a) paragraphs 2(11) and 25 (identity of instructed advocate) of Schedule 1, and

(b) paragraphs 2(5) (application) and 23(2) (warrant for arrest)(**20**) of Schedule 2.

(9) In paragraph 22 of Schedule 1 and paragraph 21 of Schedule 2—

(a) in the heading, omit "sent or transferred", and

(b) for sub-paragraph (1) substitute—

"(1) This paragraph applies to proceedings which are sent for trial to the Crown Court.".

(10) In each of the following omit ", section 6 of the Criminal Justice Act 1987(**21**) or paragraph 5 of Schedule 6 to the Criminal Justice Act 1991(**22**),"—

(**14**) Substituted by S.I. 2014/2422.
(**15**) Substituted by S.I. 2014/2422.
(**16**) Substituted by S.I. 2014/2422 and amended by Part 3 of S.I. 2015/1369, coming into force 11th January 2016.
(**17**) Substituted by S.I. 2014/2422.
(**18**) Inserted by S.I. 2014/2422 and amended by Part 3 of S.I. 2015/1369, coming into force 11th January 2016.
(**19**) Paragraph 1(1) of Schedule 1 was amended by S.I. 2015/882. Paragraph 1(1) of Schedule 2 was amended by Part 3 of S.I. 2015/1369, coming into force 11th January 2016.
(**20**) Amended by Part 3 of S.I. 2015/1369, coming into force 11th January 2016.
(**21**) 1987 c. 38. Repealed by Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), subject to savings specified in article 5 of S.I. 2012/1320 and articles 3 and 4 of S.I. 2012/2574 and 2013/1103.
(**22**) 1991 c. 53. Repealed by Part 4 of Schedule 37 to the Criminal Justice Act 2003, subject to savings specified in article 5 of S.I. 2012/1320 and articles 3 and 4 of S.I. 2012/2574 and 2013/1103.

(a) paragraph 22(7) of Schedule 1, and

(b) paragraph 21(4) of Schedule 2.

(11) In Schedule 1—

(a) in paragraph 1(1)—

(i) after the definition of "cracked trial" insert—

""excluded hearing" means—

(a) the first hearing at which the assisted person enters a plea;

(b) any hearing which forms part of the main hearing, or

(c) any hearing for which a fee is payable under a provision of this Schedule other than paragraph 12(2);", and

(ii) in the definition of "standard appearance"—

(aa) for "which do not form part of the main hearing" substitute "unless it is an excluded hearing";

(bb) in paragraph (a) omit ", except the first plea and case management hearing";

(cc) after paragraph (b) insert—

"(ba) a pre-trial preparation hearing;

(bb) a case management hearing;", and

(dd) in paragraph (d), for "a plea and case management hearing, a pre-trial review" substitute "the first hearing at which the assisted person enters a plea";

(b) in paragraph 2—

(i) omit sub-paragraph (9), and

(ii) for sub-paragraph (10) substitute—

"(10) Where, at any time after proceedings are sent for trial to the Crown Court they are—

(a) discontinued by a notice served under section 23A of the Prosecution of Offences Act 1985 (discontinuance of proceedings after accused has been sent for trial)(**23**), or

(b) dismissed pursuant to paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 (applications for dismissal)(**24**),

the provisions of paragraph 22 apply.";

(c) in paragraph 12 (fees for standard appearances)—

(i) in the heading omit "plea and case management hearings and";

(ii) in sub-paragraph (1)(a)—

(aa) for "plea and case management hearing" substitute "hearing at which the assisted person enters a plea", and

(bb) omit "or pre-trial review";

(iii) in sub-paragraph (2) omit "plea and case management hearing or", and

(iv) omit sub-paragraph (3);

(**23**) 1985 c. 23. Section 23A was inserted by paragraph 64 of Schedule 8 to the Crime and Disorder Act 1998 (c. 37) and amended by paragraph 57(7)(b) of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003.

(**24**) 1998 c. 37. Amended by paragraph 20(3)(a)(i) and (ii) of Schedule 3, paragraph 73 of Part 4 of Schedule 36 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 and S.I. 2004/2035.