STATUTORY INSTRUMENTS

2015 No. 1416

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Civil and Criminal Legal Aid (Amendment) Regulations 2015

Made - - - - *23rd June 2015*

Laid before Parliament *26th June 2015*

Coming into force in accordance with regulation 1

The Lord Chancellor makes these Regulations in exercise of the powers conferred by sections 2(3), 12(2) and (3), 14(h), 21(2) to (4), 23(1) and (6), and 41(1) to (3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(**1**).

Citation and commencement

1.—(1) These Regulations may be cited as the Civil and Criminal Legal Aid (Amendment) Regulations 2015.

(2) These Regulations come into force—

(a) for the purposes of regulations 2(3)(b), 2(5)(b), 3(b) and (c) and 6(3) on 31st July 2015;

(b) for all other purposes on 17th July 2015.

Amendments to the Civil Legal Aid (Procedure) Regulations 2012

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

(2) In regulation 2(**3**) (interpretation), in the definition of "family dispute", after paragraph (h) insert—

"(ha) paragraph 15A (female genital mutilation protection orders)(**4**);".

(**1**) 2012 c. 10. Section 42(1) provides that in Part 1of that Act "regulations" mean regulations made by the Lord Chancellor and "prescribed" means prescribed by regulations (except in Schedule 6).
(**2**) S.I. 2012/3098.
(**3**) Amended by S.I. 2014/1824.
(**4**) Paragraph 15A was inserted into Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 by section 85(1) of, and paragraph 87 of Schedule 4 to, the Serious Crime Act 2015 (c. 9).

(3) In regulation 23(**5**) (the application) after paragraph (3)—

(a) insert—

"(3A) An application for civil legal services described in paragraph 32(1) of Part 1 of Schedule 1 to the Act to be provided as Controlled Work to an individual must be made—

(a) where a conclusive determination described in paragraph 32(1)(a) of Part 1 of Schedule 1 to the Act has been made in relation to that individual, within twelve months of the date of that determination;

(b) where a determination by a competent authority described in paragraph 32(6) of Part 1 of Schedule 1 to the Act has been made in relation to that individual and the individual has been given—

(i) leave to remain in the United Kingdom outside the rules made under section 3(2) of the Immigration Act 1971(**6**), or

(ii) temporary admission or release under paragraph 21(**7**) of Schedule 2 to that Act),

on or before the latest date on which that leave or temporary admission or release comes to an end,

(and in any case where both sub-paragraphs (a) and (b) apply, the application must be made by the latest date specified by those sub-paragraphs).", and

(b) insert—

"(3B) An application for civil legal services described in paragraph 32A(1)(**8**) of Part 1 of Schedule 1 to the Act to be provided as Controlled Work to an individual must be made—

(a) where a conclusive determination described in paragraph 32A(1)(a) of Part 1 of Schedule 1 to the Act has been made in relation to that individual, within twelve months of the date of that determination;

(b) where a determination by a competent authority described in paragraph 32A(6) of Part 1 of Schedule 1 to the Act has been made in relation to that individual and the individual has been given—

(i) leave to remain in the United Kingdom outside the rules made under section 3(2) of the Immigration Act 1971, or

(ii) temporary admission or release under paragraph 21 of Schedule 2 to that Act,

on or before the latest date on which that leave or temporary admission or release comes to an end,

(and in any case where both sub-paragraphs (a) and (b) apply, the application must be made by the latest date specified by those sub-paragraphs).".

(4) In regulation 30 (applicants)—

(a) at the end of paragraph (2)(a) omit "or", and

(b) after paragraph (2)(b) insert—

"; or

(**5**) Amended by S.I. 2014/1824.
(**6**) 1971 c. 77.
(**7**) Amended by the Immigration and Asylum Act 1999 (c. 33).
(**8**) Paragraph 32A was inserted into the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) by section 47 of the Modern Slavery Act 2015 (c. 30).

(c) the proposed provider if the application is made in relation to proceedings in the youth court for civil legal services in circumstances where a child is permitted to conduct proceedings on the child's own behalf.".

(5) In regulation 31(**9**) (the application)—

(a) after paragraph (7) insert—

"(7A) Regulations 33 and 34 do not apply to an application for legal representation for an individual where a determination has already been made that the individual qualifies for family help (higher) ("the initial determination") and—

(a) the initial determination has not been withdrawn by the Director under regulation 42(1); and

(b) the application is for legal representation in the same proceedings as those for which the initial determination was made.";

(b) for paragraph (8) substitute—

"(8) An application for civil legal services described in paragraph 32(1) of Part 1 of Schedule 1 to the Act to be provided to an individual must be made—

(a) where a conclusive determination described in paragraph 32(1)(a) of Part 1 of Schedule 1 to the Act has been made in relation to that individual, within twelve months of the date of that determination;

(b) where a determination by a competent authority described in paragraph 32(6) of Part 1 of Schedule 1 to the Act has been made in relation to that individual and the individual has been given—

(i) leave to remain in the United Kingdom outside the rules made under section 3(2) of the Immigration Act 1971, or

(ii) temporary admission or release under paragraph 21 of Schedule 2 to that Act,

on or before the latest date on which that leave or temporary admission or release comes to an end,

(and in any case where both sub-paragraphs (a) and (b) apply, the application must be made by the latest date specified by those sub-paragraphs).

(9) An application for civil legal services described in paragraph 32A(1) of Part 1 of Schedule 1 to the Act to be provided to an individual must be made—

(a) where a conclusive determination described in paragraph 32A(1)(a) of Part 1 of Schedule 1 to the Act has been made in relation to that individual, within twelve months of the date of that determination;

(b) where a determination by a competent authority described in paragraph 32A(6) of Part 1 of Schedule 1 to the Act has been made in relation to that individual and the individual has been given—

(i) leave to remain in the United Kingdom outside the rules made under section 3(2) of the Immigration Act 1971, or

(ii) temporary admission or release under paragraph 21 of Schedule 2 to that Act,

on or before the latest date on which that leave or temporary admission or release comes to an end,

(**9**) Amended by S.I. 2014/1824.

(and in any case where both sub-paragraphs (a) and (b) apply, the application must be made by the latest date specified by those paragraphs).".

(6) In regulation 33(**10**) (supporting documents: domestic violence)—

(a) in paragraph (2)—

(i) after sub-paragraph (ea) insert—

"(eb) a relevant conviction for a domestic violence offence where B was convicted of that offence within the twenty four month period immediately preceding the date of the application for civil legal services;";

(ii) in sub-paragraph (j) for paragraph (i) substitute—

"(i) that within the twenty four month period immediately preceding the date of the application for civil legal services, A had been accommodated in a refuge;";

(iii) in sub-paragraph (k), in paragraph (i), omit the words from "established" to "domestic violence";

(b) in paragraph (3)—

(i) after the definition of "A" and "B" insert—

""accommodated" does not require a stay of a minimum time period;";

(ii) in the definition of "protective injunction", after paragraph (d) insert—

"(da) an injunction under section 3A of the Protection from Harassment Act 1997(**11**);", and

(iii) after the definition of "protective injunction" insert—

""refuge" means a refuge established for the purpose of providing accommodation for victims of, or those at risk of, domestic violence.";

(c) in paragraph (4)—

(i) in sub-paragraph (a)(i) after "(ea)," insert "(eb),";

(ii) in sub-paragraph (b)(i) for "and (ea) substitute ", (ea) and (eb)", and

(d) after paragraph (4) insert—

"(5) In relation to Licensed Work, this regulation applies subject to regulation 31(7A).".

(7) In regulation 34(**12**) (supporting documents: protection of children)—

(a) After paragraph (2)(a) insert—

"(aa) a relevant conviction for a child abuse offence where B was convicted of that offence within the twenty four month period immediately preceding the date of the application for civil legal services.", and

(b) after paragraph (3) insert—

"(4) In relation to Licensed Work, this regulation applies subject to regulation 31(7A).".

(**10**) Amended by S.I. 2014/814.
(**11**) 1997 c. 40. Section 3A was inserted by the Serious Organised Crime and Police Act 2005 (c. 15), section 125(5) and was amended by the Crime and Courts Act 2013 (c. 22), Schedule 9, part 3, paragraph 52(1)(b).
(**12**) Amended by S.I. 2014/814.