STATUTORY INSTRUMENTS

2015 No. 1369

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Criminal Legal Aid (Remuneration etc.) (Amendment) Regulations 2015

Made - - - - 9th June 2015

Laid before Parliament 10th June 2015

Coming into force in accordance with regulation 1

The Lord Chancellor makes these Regulations(**1**) in exercise of the powers conferred by sections 2(3), 13(4) and (5), 15(9), 18(3) and (4), 21(2) and 41(1) to (3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(**2**).

PART 1

GENERAL

Citation, commencement and interpretation

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

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

(a) Part 2 on 1st July 2015, and

(b) Part 3 on 11th January 2016.

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

(**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 "regulations" means regulations made by the Lord Chancellor.

(**2**) 2012 c. 10.

(**3**) S.I. 2013/435.

Transitional provisions

2.—(1) The amendments made by Part 2 of these Regulations apply to matters in which a relevant determination is made on or after 1stJuly 2015.

(2) The amendments made by Part 3 of these Regulations apply to matters in which a relevant determination is made on or after 11th January 2016.

(3) In this regulation a "relevant determination" means a determination made under section 13 (advice and assistance for individuals in custody), section 15 (advice and assistance for criminal proceedings) or section 16 (representation for criminal proceedings) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

PART 2

AMENDMENTS COMING INTO FORCE ON 1ST JULY 2015

Amendments to the Criminal Remuneration Regulations

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

(2) Schedule 2 (litigators' graduated fee scheme) is amended as set out in Schedule 1 to these Regulations.

(3) Schedule 3 (proceedings in the Court of Appeal) is amended as set out in Schedule 2 to these Regulations.

(4) Schedule 4 (rates payable for the claims specified in regulation 8) is amended as set out in Schedule 3 to these Regulations.

PART 3

AMENDMENTS COMING INTO FORCE ON 11TH JANUARY 2016

Amendments to the Criminal Legal Aid (General) Regulations 2013

4.—(1) The Criminal Legal Aid (General) Regulations 2013(**4**) are amended as follows.

(2) In regulation 2(**5**) (interpretation)—

(a) in the appropriate place, insert—

> ""relevant contract" means whichever of the 2015 Duty Provider Crime Contract or the 2015 Own Client Crime Contract governs the provision of advice and assistance made available under sections 13 or 15 of the Act, for which remuneration is claimed;";

(b) in the definition of "Unit of Work", for "1.5 of Part A of the Specification to the 2010 Standard Crime Contract" substitute "1.1 of the Standard Terms to the relevant contract", and

(c) for the definition of "2010 Standard Crime Contract" substitute—

> ""2015 Duty Provider Crime Contract" and "2015 Own Client Crime Contract" mean the contracts so named between the Lord Chancellor and a provider of

(**4**) S.I. 2013/9.
(**5**) Amended by S.I. 2013/2790.

advice and assistance or representation made available under sections 13, 15 or 16 of the Act.".

(3) In each of the following, for "2010 Standard Crime Contract" substitute "relevant contract"—

(a) regulation 8(b) (applications);

(b) regulation 11(3) (general);

(c) regulation 14 (applications), in both places it occurs;

(d) regulation 15(1)(b) (determinations);

(e) regulation 16(e)(ii) (withdrawal), and

(f) regulation 17(b) (appeal).

Amendments to the Civil Legal Aid (Remuneration) Regulations 2013

5.—(1) The Civil Legal Aid (Remuneration) Regulations 2013(**6**) are amended as follows.

(2) In regulation 2(1)(**7**) (interpretation)—

(a) for the definition of "the relevant contract" substitute—

""the relevant contract" means whichever of the 2010 Standard Civil Contract, the 2013 Standard Civil Contract, the 2013 Individual Case Contract (Civil), the 2014 Standard Civil Contract, the 2014 Standard Civil Contract (Welfare Benefits), the 2015 Duty Provider Crime Contract, the 2015 Own Client Crime Contract or the 2015 Standard Civil Contract governs the provision of civil legal services for which remuneration is claimed; and", and

(b) for the entry beginning "the 2010 Standard Civil Contract" substitute—

""the 2010 Standard Civil Contract", "the 2013 Standard Civil Contract", "the 2013 Individual Case Contract (Civil)", "the 2013 Individual Case Contract (High Cost Civil)", "the 2014 Standard Civil Contract", "the 2014 Standard Civil Contract (Welfare Benefits)", "the 2015 Duty Provider Crime Contract", "the 2015 Own Client Crime Contract" and "the 2015 Standard Civil Contract" mean the contracts so named between the Lord Chancellor and a provider of civil legal services under Part 1 of the Act (legal aid).".

(3) In regulation 5A(3)(**8**) (interpretation)—

(a) omit sub-paragraph (a), and

(b) for sub-paragraph (j) substitute—

"(j) "relevant contract" includes the 2013 Individual Case Contract (High Cost Civil) and the 2013 CLA Contract;".

Amendments to the Criminal Remuneration Regulations

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

(2) In the Table of Contents, in the entry for Schedule 2—

(a) in the heading of Schedule 2 omit "Graduated", and

(b) at the appropriate place, insert "Part 1A Fixed Fees for Guilty Pleas, Cracked Trials and Trials".

(**6**) S.I. 2013/422.
(**7**) Amended by S.I. 2014/7, 2014/586, 2014/1389, 2014/1824 and 2015/325.
(**8**) Inserted by S.I. 2015/898. S.I. 2014/607 first inserted regulation 5A but was quashed by the High Court by order dated 19th March 2015 in R (on the application of Ben Hoare Bell Solicitors and Others) v Lord Chancellor [2015] EWHC 523 (Admin).

(3) In regulation 8 (claims for fees for certain categories of work to which the Standard Crime Contract applies)—

(a) in the heading, omit "to which the Standard Crime Contract applies";

(b) in paragraph (2)(a), for "2010 Standard Crime Contract" substitute "relevant contract", and

(c) for paragraph (3), substitute—

"(3) In this regulation and in Schedule 4—

"relevant contract" means whichever of the 2015 Duty Provider Crime Contract or the 2015 Own Client Crime Contract governs the provision of advice and assistance or representation made available under sections 13, 15 or 16 of the Act, for which remuneration is claimed, and

"2015 Duty Provider Crime Contract" and "2015 Own Client Crime Contract" mean the contracts so named between the Lord Chancellor and a provider of advice and assistance or representation made available under sections 13, 15 or 16 of the Act.".

(4) In regulation 17A(**9**) (interim payment of litigators' fees)—

(a) paragraphs (11) to (13) are amended as set out in Schedule 4 to these Regulations;

(b) in paragraph (14)—

(i) for "paragraph (13)(a)(i)" substitute "paragraph (13)(b)(i)";

(ii) for "paragraph 5(2)", in both instances, substitute "paragraph 5", and

(iii) at the end of sub-paragraphs (a) and (b) insert "as appropriate to the offence with which the assisted person is charged and the number of pages of prosecution evidence served on the court";

(c) in paragraph (19), for ""PPE Cut-off" has" substitute ""cracked trial", "guilty plea" and "PPE Cut-off" have", and

(d) after paragraph (19), insert—

"(20) For the purpose of this regulation, the number of pages of prosecution evidence served on the court must be determined in accordance with paragraph 1(3) to (5) of Schedule 2.".

(5) At the end of regulation 21(4)(d)(**10**) (hardship payments) insert ", where appropriate".

(6) In regulation 28(1)(c)(i)(**11**) (redetermination of fees by appropriate officer), for "calculation" substitute "determination".

(7) In Schedule 2—

(a) in the heading of the Schedule omit "Graduated";

(b) in paragraph 1(1), in the definition of "PPE Cut-off"—

(i) omit "minimum";

(ii) for "calculating" substitute "determining";

(iii) for "tables" substitute "table", and

(iv) omit "(1) and (2)";

(c) after paragraph 3 (class of offences) insert Part 1A as set out in Schedule 5 to these Regulations;

(**9**) Inserted by S.I. 2014/2422.
(**10**) Amended by S.I. 2014/2422 and 2015/882.
(**11**) Amended by S.I. 2015/882.

(d) in paragraph 4(2)(**12**) (scope), after "in all cases" insert "in which the number of pages of prosecution evidence served on the court exceeds 500";

(e) for paragraph 5 (pages of prosecution evidence) substitute paragraph 5 as set out in Schedule 6 to these Regulations;

(f) omit paragraph 6(**13**) (cracked trial or guilty plea where the number of pages of prosecution evidence is less than or equal to the PPE Cut-off);

(g) in the each of the following paragraphs, for "paragraph 5(2)" substitute "paragraph 5"—

(i) 7(1)(**14**) (trial where the number of pages of prosecution evidence is less than or equal to the PPE Cut-off);

(ii) 9(1)(**15**) (trials where the number of pages of prosecution evidence exceeds the PPE Cut-off);

(iii) 12(3)(b) and (d) (defendant uplifts), and

(iv) 13(7)(b) and (d) (retrials and transfers);

(h) in the heading of paragraph 8(**16**) (cracked trials and guilty pleas where the number of pages of prosecution evidence exceeds the PPE Cut-off) omit the words following "guilty pleas";

(i) in paragraph 8(1)—

(i) for "Where in" substitute "In", and

(ii) omit the words from "the number" to "charged";

(j) for the tables following paragraph 8(2), including the headings to the tables, substitute the text as set out in Schedule 7 to these Regulations;

(k) for the table following paragraph 9(2), including the heading to the table, substitute the text as set out in Schedule 8 to these Regulations;

(l) at the end of the heading of Part 3 (fixed fee for guilty pleas and cracked trials) insert "in Elected Cases";

(m) in paragraph 12—

(i) in sub-paragraph (1), after "litigator" insert "under Part 2";

(ii) omit sub-paragraph (3)(a);

(iii) in sub-paragraph (3)(c), omit the words from "where" to "paragraph 5(1)", and

(iv) in sub-paragraph (4), for "(a)" substitute "(b)";

(n) in paragraph 13(7)—

(i) for paragraph (a) substitute—

"(a) in a case to which Part 1A applies, the fixed fee determined in accordance with paragraph 3AA;";

(ii) in paragraph (c), omit the words from "where" to "paragraph 5(1),";

(iii) in paragraphs (b) and (d), after "in a trial" insert "in a case to which Part 2 applies,", and

(iv) in the heading of the fourth column in the table following sub-paragraph (12), after "Claim period" insert "(where Part 2 applies)";

(**12**) Substituted by S.I. 2014/2422.
(**13**) Amended by S.I. 2014/415.
(**14**) Amended by S.I. 2014/415.
(**15**) Amended by S.I. 2014/415.
(**16**) Amended by S.I. 2014/415.