

2013 No. 534

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Legal Aid, Sentencing and Punishment of Offenders Act
2012 (Consequential, Transitional and Saving Provisions)
Regulations 2013**

<i>Made</i> - - - -	<i>7th March 2013</i>
<i>Laid before Parliament</i>	<i>11th March 2013</i>
<i>Coming into force</i> - -	<i>1st April 2013</i>

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by sections 25(4)(b) and 149 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(a).

Citation, commencement and interpretation

1. These Regulations may be cited as the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Consequential, Transitional and Saving Provisions) Regulations 2013 and come into force on 1st April 2013.

2. In these Regulations—

“the Act” means the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“the 1999 Act” means the Access to Justice Act 1999(b);

“certificate” means a certificate issued under the Funding Code;

“Certificated Work” means Licensed Work and Individual Case Contracts, which are further defined in Part A of Part 2 of the Funding Code (Funding Code: Procedures);

“the CLA Helpline” means the CLA Operator Service and the CLA Specialist Telephone Advisers;

“the CLA Operator Service” means the Community Legal Advice Operator Service;

“CLA Specialist Telephone Adviser” means a specialist telephone adviser under any of the following so named contracts(c) between a provider and the Commission—

(a) CLA Specialist Telephone Advice Contracts 2000;

(b) CLA Specialist Telephone Advice Family Contracts 2009; or

(c) CLA Specialist Telephone Advice Contracts 2013;

“the Commission” means the Legal Services Commission established under section 1 of the Access to Justice Act 1999;

(a) 2012 c. 10.

(b) 1999 c. 22.

(c) The contracts are available at www.justice.gov.uk/legal-aid. Copies can be inspected at the Legal Aid Agency (Head Office) at 102 Petty France, London, SW1H 9AJ.

“Community Legal Service” means the Community Legal Service described in section 4 of the 1999 Act;

“Criminal Defence Service” means the Criminal Defence Service described in section 12 of the 1999 Act;

“funded services” means services that are provided directly for an individual and funded for that individual as part of the Community Legal Service or as part of the Criminal Defence Service under Part 1 of the 1999 Act;

“the Funding Code” means the Funding Code approved under section 9 of the 1999 Act;

“levels of service” means the levels of service set out in paragraph 1.1, and further defined in paragraph 2.1, of Part 1 of the Funding Code (Funding Code: Criteria) and for the purpose of these Regulations Family Help (Lower) and Family Help (Higher) are treated as different levels of service;

“pre-commencement case” means a case—

- (a) in which advice, assistance, mediation or representation is provided by the Commission under the Legal Aid Act 1988(a) in accordance with article 5 of the Access to Justice Act 1999 (Commencement No. 3, Transitional Provisions and Savings) Order 2000(b) or article 4 of, and Schedule 2 to, the Access to Justice Act (Commencement No. 7, Transitional Provisions and Savings) Order 2001(c);
- (b) where an application for funding under the Criminal Defence Service is granted before 1st April 2013; or
- (c) where there is a pre-commencement application for funding under the Community Legal Service within the meaning of regulation 3;

“provider” means a person who provides or is seeking to provide services as part of the Community Legal Service; and

“Variety of Funded Work” means one of the following—

- (a) Certificated Work;
- (b) Controlled Work; or
- (c) Other Grant or Contract Work,

and “Controlled Work” and “Other Grant or Contract Work” are defined in Part A of Part 2 of the Funding Code (Funding Code: Procedures).

Pre-commencement application for funding under the Community Legal Service

3. A “pre-commencement application for funding under the Community Legal Service” means an application for funding under the Community Legal Service that—

- (a) is made before 1st April 2013; or
- (b) is a new application for funding under the Community Legal Service described in regulation 5.

4.—(1) For the purpose of regulation 3(a) an application, other than an application made to the CLA Helpline, is made before 1st April 2013—

- (a) if the application is for Controlled Work and the application is signed and dated before 1st April 2013;
- (b) if the application is in paper form for Certificated Work, other than an application for emergency representation, and the application—
 - (i) is signed and dated before 1st April 2013; and

(a) 1988 c. 34. The provisions of the Legal Aid Act 1988 relevant to these Regulations were repealed for certain purposes on 1st April 2000 and for remaining purposes on 2nd April 2001, subject to transitional provisions and savings.

(b) S.I. 2000/774 (C. 16).

(c) S.I. 2001/916 (C. 32).

- (ii) is received by the Commission or, after 31st March 2013, by the Director, by 5.00pm on 8th April 2013;
 - (c) if the application is in electronic form for Certificated Work and the application is recorded on the Commission's Client and Cost Management System as having been submitted through that system before 1st April 2013; or
 - (d) if the application is for exceptional funding under the 1999 Act and the application—
 - (i) is signed and dated before 1st April 2013; and
 - (ii) received by the Commission or, after 31st March 2013, by the Director, by 5.00pm on 8th April 2013.
- (2) For the purpose of regulation 3(a) an application that is made to the CLA Helpline is made before 1st April 2013 if—
- (a) the individual makes the application to a CLA Specialist Telephone Adviser before 12.30pm on 30th March 2013; or
 - (b) the CLA Operator Service transfers the individual to a CLA Specialist Telephone Adviser before 12.30pm on 30th March 2013 and—
 - (i) the call is not answered by the CLA Specialist Telephone Adviser before 12.30pm on 30th March 2013;
 - (ii) the individual leaves a message with the CLA Specialist Telephone Adviser before 12.30pm on 30th March 2013; and
 - (iii) the individual makes the application to a CLA Specialist Telephone Adviser within two weeks of leaving the message.
- (3) For the purpose of regulation 3(a) an application for emergency representation is treated as having been made before 1st April 2013 if—
- (a) the application—
 - (i) is granted by a provider before 1st April 2013; and
 - (ii) notified within five working days of the grant to the Commission or, after 31st March 2013, to the Director; or
 - (b) the application is faxed to, and received by, the Commission before 1st April 2013.
- (4) In this regulation—
- (a) an “application for emergency representation” means an application made under Section 3 of Part C of Part 2 of the Funding Code (Funding Code: Procedures); and
 - (b) an “application for exceptional funding under the 1999 Act” means an application under section 6(8)(b) of the 1999 Act made in accordance with paragraphs 15.1 to 15.3 of Part 2 of the Funding Code (Funding Code: Procedures).
- 5.—**(1) An application is a new application for funding referred to in regulation 3(b) if either paragraph (2) or (3) applies.
- (2) This paragraph applies where a further application for funding is made after 31st March 2013 and the following conditions are met—
- (a) funded services have been provided as a result of a pre-commencement application for funding under the Community Legal Service (“the original application”);
 - (b) the further application for funding relates to the same case for which the funded services were provided as a result of the original application; and
 - (c) the further application for funding is—
 - (i) for a different level of service to that provided as a result of the original application; and
 - (ii) the different level of service falls within the same Variety of Funded Work as the level of service for which funding was provided as a result of the original application.

(3) This paragraph applies where a further application for funding under the Community Legal Service is made after 31st March 2013 and the following conditions are met—

- (a) funded services that are Certificated Work have been provided as a result of a pre-commencement application for funding under the Community Legal Service (“the original application”);
- (b) the further application for funding relates to the case for which the funded services were provided as a result of the original application; and
- (c) as a result of the further application for funding, it is decided under paragraph 35.1 of Part C of Part 2 of the Funding Code (Funding Code: Procedures) that the certificate should cover more than one set of proceedings.

Saving and transitional provisions

6.—(1) The provisions commenced by article 3(a) and (e) to (i) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 6) Order 2013^(a) (“the Commencement No. 6 Order”), with the exception of section 38(1) of the Act (abolition of the Legal Services Commission), do not apply to a pre-commencement case.

(2) Paragraph (1) is subject to paragraphs (4) and (5) and regulations 7 to 13.

(3) Accordingly, the following continue to apply to a pre-commencement case—

- (a) Part 1 of the 1999 Act and the Legal Aid Act 1988 and all orders, regulations, guidance, directions or authorisations made or given under them, in so far as they were in force immediately before 1st April 2013;
- (b) any power or duty to make orders or regulations (including orders in relation to the payment of remuneration for funded services) or to give guidance, directions or authorisations; and
- (c) delegations conferred by the Commission before 1st April 2013 in relation to the powers, duties or other functions of the Commission described in regulation 7(2) and (3).

(4) The repeal on 1st April 2013 of the following provisions of the 1999 Act by article 3(a) and (e) to (i) of the Commencement No. 6 Order takes effect in relation to a pre-commencement case—

- (a) section 1 and Schedule 1 (Legal Services Commission);
- (b) section 2 (power to replace Commission with two bodies);
- (c) section 4(4)(a) (duty on persons exercising functions relating to the Community Legal Service);
- (d) section 4(6) (duty of Commission to inform itself about services);
- (e) section 5 (funding of services);
- (f) section 8(8) and (9) (code about provision of funded services);
- (g) section 16(4) (code of conduct);
- (h) section 18 (funding); and
- (i) section 25(2) to (4) (requirements prior to making remuneration orders).

(5) The following provisions of Schedule 5 to the Act (legal aid: consequential amendments) commenced by article 3(a) and (e) to (i) of the Commencement No. 6 Order take effect in relation to a pre-commencement case—

- (a) paragraph 1 (Public Records Act 1958^(b));
- (b) paragraph 2 (Parliamentary Commissioner Act 1967^(c));

(a) S.I. 2013/453 (C. 19).

(b) 1958 c. 51.

(c) 1967 c. 13.

- (c) paragraph 10 (House of Commons Disqualification Act 1975(a));
- (d) paragraph 11 (Northern Ireland Assembly Disqualification Act 1975(b));
- (e) paragraph 55 (Freedom of Information Act 2000(c));
- (f) paragraph 66 (Domestic Violence, Crime and Victims Act 2004(d));
- (g) paragraph 70 (Equality Act 2010(e));
- (h) paragraph 71 (Terrorist Asset-Freezing etc. Act 2010(f)); and
- (i) the entries in the Table in Part 2 of Schedule 5 (repeals consequential on Part 1 of this Schedule) relating to paragraphs 1, 11 and 12 of Schedule 4 to the 1999 Act.

7.—(1) After 31st March 2013, any power, duty or other function of the Commission to which paragraph (2) applies may be exercised in relation to a pre-commencement case—

- (a) by the Director, to the extent that the power, duty or other function relates to a decision in an individual case about any of the following—
 - (i) whether to fund, or continue to fund, funded services for an individual;
 - (ii) whether to request an authorisation from the Lord Chancellor under section 6(8)(b) of the 1999 Act;
 - (iii) the terms of the provision of the funded services;
 - (iv) the grant (including the provisional grant) or withdrawal of a right to representation, under section 14 of, and Schedule 3 to, the 1999 Act;
 - (v) liability to a contribution order under section 17A of the 1999 Act;
 - (vi) whether the case should be referred under paragraph 23.1 of Part C of Part 2 of the Funding Code (Funding Code: Procedures) or whether a direction should be made under paragraph 26 of Part C of Part 2 of the Funding Code (Funding Code: Procedures);
 - (vii) whether the case should be classified as a Very High Cost Case under regulation 2 of the Criminal Defence Service (Funding) Order 2007(g); and
- (b) otherwise by the Lord Chancellor,

and any reference to the Commission, or to any person exercising a power, duty or other function on behalf of the Commission, in any enactment and in the Funding Code, authorisations, directions and guidance made under Part 1 of the 1999 Act must be construed accordingly.

(2) This paragraph applies to any power, duty or other function of the Commission that remains in force on 1st April 2013 and that before that date was exercisable by the Commission under Part 1 of the 1999 Act or under the Funding Code, orders, regulations, directions, authorisations or guidance made under that Part of that Act, including one exercised by another person on behalf of the Commission.

(3) Any power, duty or other function of the Commission that remains in force on 1st April 2013 and that before that date was exercisable by the Commission in relation to advice, assistance, mediation and representation under the Legal Aid Act 1988, may be exercised after 31st March 2013 in relation to a pre-commencement case—

- (a) by the Director, if the power, duty or other function is equivalent to one referred to in paragraph (1)(a); and
- (b) otherwise by the Lord Chancellor.

(a) 1975 c. 24.
 (b) 1975 c. 25.
 (c) 2000 c. 36.
 (d) 2004 c. 28.
 (e) 2010 c. 15.
 (f) 2010 c. 38.
 (g) S.I. 2007/1174.

(4) A power, duty or other function exercisable by the Director or by the Lord Chancellor in accordance with paragraphs (1) and (3) may be exercised by a person authorised for that purpose by, respectively, the Director or the Lord Chancellor, or an employee of that person.

(5) Delegations referred to in regulation 6(3)(c) continue to apply in relation to a pre-commencement case as if they were authorisations made by the Director or the Lord Chancellor under paragraph (4).

8. After 31st March 2013, in relation to a pre-commencement case—

- (a) any reference to the Community Legal Service Fund^(a) in any enactment and in the Funding Code, authorisations, directions and guidance made under Part 1 of the 1999 Act must be construed as a reference to the Lord Chancellor or, in relation to costs payable out of the Community Legal Service Fund, as a reference to costs payable by the Lord Chancellor in relation to funded services provided under the Community Legal Service;
- (b) in paragraph 6.4 of Section 6 of Part 1 of the Funding Code (Funding Code: Criteria) the reference to “Central Budget” must be construed as a reference to the Lord Chancellor;
- (c) any reference in the Funding Code, orders, regulations, authorisations, directions and guidance made under Part 1 of the 1999 Act to an Independent Funding Adjudicator appointed by the Commission must be construed as if it were a reference to an independent funding adjudicator appointed by the Lord Chancellor under section 2(1) of the Act (arrangements); and
- (d) any reference in the Funding Code, orders, regulations, authorisations, directions and guidance made under Part 1 of the 1999 Act to the Special Controls Review Panel appointed by the Commission must be construed as if it were a reference to the special controls review panel appointed by the Lord Chancellor under section 2(1) of the Act.

Assessment of resources

9.—(1) In this regulation—

- (a) “Legal Aid Assessment Regulations” means the Civil Legal Aid (Assessment of Resources) Regulations 1989^(b);
- (b) “CLS Financial Regulations” means the Community Legal Service (Financial) Regulations 2000^(c); and
- (c) “the 2013 Regulations” means the Civil Legal Aid (Financial Resources and Payments for Services) Regulations 2013^(d).

(2) After 31st March 2013, on any assessment, re-assessment, further assessment or amended assessment of resources under the Legal Aid Assessment Regulations or under the CLS Financial Regulations in respect of funded services provided in a pre-commencement case—

- (a) the individual’s financial eligibility and contribution must be calculated by reference to the higher of the relevant figures in the Legal Aid Assessment Regulations or, as the case may be, the CLS Financial Regulations and the equivalent figures for the time being in the 2013 Regulations, as set out in the table; and
- (b) regulation 25 (deductions in respect of a partner and dependants of the individual) of the 2013 Regulations applies.

(a) Under section 5(1) of the Access to Justice Act 1999 (repealed by S.I. 2013/453 (C. 19)), the Legal Services Commission was required to establish and maintain a fund known as the Community Legal Service Fund.

(b) S.I. 1989/338. This instrument lapsed on 1st April 2000 on the repeal of the enabling provision, subject to savings in relation to certain existing cases by virtue of article 5 of S.I. 2000/774.

(c) S.I. 2000/516.

(d) S.I. 2013/480.

Table

<i>Legal Aid Regulations</i>	<i>Assessment</i>	<i>CLS Financial Regulations</i>	<i>The 2013 Regulations</i>
regulation 4(2)		regulation 5(2)	regulation 8(2)
regulation 4(2)(a)		regulation 5(2)	regulation 8(2)
regulation 4(3)		regulation 5(2)	regulation 8(2)
regulation 4(3)(a)		regulation 5(2)	regulation 8(2)
		regulation 5A	regulation 7
regulation 4(4)(a)		regulation 38(2)(b)	regulation 44(2)(b)
regulation 4(4)(b)		regulation 38(2A)(b)	regulation 44(3)(b)
		regulation 23(1)(a)	regulation 27(1)(a)
		regulation 24(7)	regulation 28(7)
paragraph 10(a) of Schedule 3		regulation 32(2)	regulation 37(2)
		regulation 32A(2)	regulation 38(2)
paragraph 10(b) of Schedule 3		regulation 32B(2)	regulation 39(2)
		regulation 35(1)(c)	regulation 41(1)(b)

Statutory charge

10.—(1) This regulation applies if a legally aided party has received in a pre-commencement case funded services made available under the Community Legal Service in connection with a relevant dispute or relevant proceedings.

(2) Where this regulation applies, section 25(2)(a) of the Act (charges on property in connection with civil legal services) is modified so that the amounts expended by the Lord Chancellor in securing the provision of the services include the amounts expended in providing funded services under the Community Legal Service.

(3) Where this regulation applies, the Civil Legal Aid (Statutory Charge) Regulations 2013(a) must be applied with the following modifications—

- (a) in regulation 4(1), the reference to the cost to the Lord Chancellor of providing the forms of civil legal services set out in regulation 4(1)(a) to (e) includes the cost of providing the following levels of service—
 - (i) Legal Help;
 - (ii) Help at Court;
 - (iii) Family Help (Lower); or
 - (iv) Family Mediation; and
- (b) in regulation 4(2), the reference to the cost to the Lord Chancellor of providing legal help, help at court, family help (lower) and family mediation includes the cost of providing the following levels of service—
 - (i) Legal Help;
 - (ii) Help at Court; or
 - (iii) Family Help (Lower).

(4) In a case to which this regulation applies, the statutory charge created by section 25(1) of the Act does not include any amount that has been recovered or charged under the charge arising under section 10(7) of the 1999 Act.

(5) In this regulation “legally aided party”, “relevant dispute” and “relevant proceedings” have the same meaning as in the Civil Legal Aid (Statutory Charge) Regulations 2013.

(a) S.I. 2013/503.

Criminal legal aid

11. Where an application for advice and assistance under section 13 of the 1999 Act (advice and assistance) or an application for a grant of a right to representation under section 14 of the 1999 Act (representation) is not considered until after 31st March 2013, the application must be treated as an application for advice and assistance under section 13 or 15 of the Act or as an application for representation for the purposes of criminal proceedings under section 16 of the Act.

12. Where both—

- (a) a grant to a right to representation under section 14 of the 1999 Act which was granted before 1st April 2013; and
- (b) a determination for representation for the purposes of criminal proceedings under section 16 of the Act,

exist in the same proceedings, the Criminal Defence Service (Funding) Order 2007 applies and the Criminal Legal Aid (Remuneration) Regulations 2013(a) do not apply.

Exclusion from legal aid work

13.—(1) After 31st March 2013, the exclusion from legal aid work or from providing representation funded by the Commission as part of the Criminal Defence Service before that date of any barrister by virtue of section 42 of the Administration of Justice Act 1985(b) or of any solicitor by virtue of section 47 of the Solicitors Act 1974(c) also takes effect as an exclusion from criminal legal aid work.

(2) In paragraph (1)—

- (a) “criminal legal aid work” means the provision under arrangements made for the purposes of Part 1 of the Act of the types of advice, assistance and representation that are required to be made available under sections 13 (advice and assistance for individuals in custody), 15 (advice and assistance for criminal proceedings) and 16 (representation for criminal proceedings) of the Act; and
- (b) “legal aid work” means the provision of services under the Legal Aid Act 1988.

Consequential amendments to secondary legislation

14.—(1) Subject to paragraph (2), the consequential amendments set out in the Schedule take effect.

(2) The consequential amendments set out in Part 2 of the Schedule do not apply to a pre-commencement case.

(3) The amendments to rule 18(a)(i) (notice of funding of legal services) of the Tribunal Procedure (Upper Tribunal) Rules 2008(d) made by rule 55 of the Tribunal Procedure (Amendment) Rules 2013(e) do not apply to a pre-commencement case.

(4) In the Civil Procedure Rules 1998(f)—

- (a) references to an assisted person and LSC funded client have the same meaning as in rule 43.2 of those Rules as it was in force immediately before 1st April 2013; and

(a) S.I. 2013/435.

(b) 1985 c. 61.

(c) 1974 c. 47.

(d) S.I. 2008/2698.

(e) S.I. 2013/477 (L. 2).

(f) S.I. 1998/3132 (L. 17). Rule 43.2 is revoked, and rule 46.2(2)(a)(i) is substituted, on 1st April 2013 by S.I. 2013/262 (L. 1).

- (b) in paragraph (2)(a)(i) of rule 46.2, “legal aid” includes funded services under the Community Legal Service.

Signed by authority of the Lord Chancellor

7th March 2013

McNally
Minister of State
Ministry of Justice

SCHEDULE

Regulation 14

Consequential amendments to secondary legislation

PART 1

Amendment of the Costs in Criminal Cases (General) Regulations 1986

1.—(1) In this paragraph “the 1986 Regulations” means the Costs in Criminal Cases (General) Regulations 1986**(a)**.

(2) In the definition of “interested party” in each of regulations 3A (applications and definitions in relation to wasted costs orders) and 3E (applications and definitions in relation to third party costs orders) of the 1986 Regulations—

- (a) after “as part of the Criminal Defence Service” insert “, or provided for him under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,”; and
- (b) after “work done under the representation order” insert “, or under the determination for representation for the purposes of criminal proceedings,”

(3) In each of regulations 3D (recovery of sums due under a wasted costs order) and 3I (recovery of sums due under a third party costs order) of the 1986 Regulations, after “as part of the Criminal Defence Services) insert “, or provided for him under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,”.

(4) In regulation 6(3)(d) of the 1986 Regulations (claims for costs), after “as part of the Criminal Defence Service” insert “, or provided for him under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,”.

(5) In regulation 26 of the 1986 Regulations (directions by the Lord Chancellor) after each occurrence of “as part of the Criminal Defence Service” insert “, or by the Lord Chancellor under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

Amendment of the Civil Procedure Rules 1998

2. In the Civil Procedure Rules 1998**(b)**—

- (a) in paragraph (1) of rule 46.9 (basis of detailed assessment of solicitor and client costs), after “the Access to Justice Act 1999” insert “or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”;
- (b) after paragraph (4) of rule 47.8 (sanction for delay in commencing detailed assessment proceedings) insert—

(a) S.I. 1986/1335. Relevant amending instruments are S.I. 1991/789, 2004/2408 and 2008/2448.

(b) S.I. 1998/3132 (L. 17). Rules 46 and 47 are substituted on 1st April 2013 by S.I. 2013/262 (L. 1).

“(5) Where the costs to be assessed in a detailed assessment are payable by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, this rule applies as if the receiving party were the solicitor to whom the costs are payable and the paying party were the Lord Chancellor.”;

- (c) in the heading to Section VI of Part 47 (detailed assessment procedure for costs of a LSC funded client or an assisted person where costs are payable out of the Community Legal Service Fund)—
 - (i) for “or an Assisted Person” substitute “, an Assisted Person or Person to Whom Legal Aid is Made Available”; and
 - (ii) after “Community Legal Service Fund” insert “or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”;
- (d) in the heading to rule 47.18 (detailed assessment procedure where costs are payable out of the Community Legal Services Fund) after “Community Legal Services Fund” insert “or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”;
- (e) in paragraph (1) of rule 47.18—
 - (i) for “or an assisted person” substitute “, an assisted person or a person to whom legal aid is provided”; and
 - (ii) after “Community Legal Services Fund” insert “or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”; and
- (f) in paragraph (3) of rule 47.18 for “or the assisted person” substitute “, the assisted person or the person to whom legal aid is provided”.

Amendment of European Communities (Lawyer’s Practice) Regulations 2000

3. In Part 1 of Schedule 3 to the European Communities (Lawyer’s Practice) Regulations 2000(a) (enactments relating to the provision of legal advice and assistance and legal aid) at the end of the list of enactments insert “Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

Amendment of the Civil Legal Aid (Scotland) Regulations 2002

4. In regulation 44(2) of the Civil Legal Aid (Scotland) Regulations 2002(b), for “the Legal Services Commission” substitute “the Director of Legal Aid Casework (within the meaning of section 4 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012)”.

Amendment of Land Registration Rules 2003

5.—(1) In rule 93(w) of the Land Registration Rules 2003(c) (persons regarded as having sufficient interest to apply for a restriction)—

- (a) for “the Legal Services Commission where it” substitute “the Lord Chancellor where the Lord Chancellor”; and
 - (b) after “section 10(7) of the Access to Justice Act 1999” insert “or by section 25(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.
- (2) In Schedule 4 to the Land Registration Rules 2003 (standard forms of restriction)—
- (a) in the title of Form JJ, for “Legal Services Commission” substitute “the Lord Chancellor”; and
 - (b) for “written notice of the disposition was given to the Legal Services Commission, Land Charge Department, at [address and Commission’s reference number]” substitute “written

(a) S.I. 2000/1119.

(b) S.S.I. 2002/494.

(c) S.I. 2003/1417. Relevant amending instruments are S.I. 2005/1766, S.I. 2008/1919 and 2012/2421.

notice of the disposition was given to the Lord Chancellor at [address and Lord Chancellor's reference number]”.

Amendment of the Serious Crime Act 2007 (Appeals under Section 24) Order 2008

6. In the Serious Crime Act 2007 (Appeals under Section 24) Order 2008(a)—
- (a) in the definition of “interested party” in article 13(1) (interpretation and transitional provision) after “the Legal Services Commission” insert “or made available for that person under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”;
 - (b) in article 13(3) after “the Legal Services Commission” insert “or made available for that person under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”;
 - (c) in article 17(6) (wasted costs order) after “the Legal Services Commission” insert “or made available for that person under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”; and
 - (d) in article 31 (recovery of sums due under a third party costs order) after “the Legal Services Commission” insert “or made available for that person under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

Amendment of the Civil Proceedings Fees Order 2008

7. In the Civil Proceedings Fees Order 2008(b)—
- (a) in paragraph 5.1 of column 1 in the table in Schedule 1 (determination of costs (senior court and county court)) for “or is funded by the LSC” insert “, is funded by the LSC or is a person for whom civil legal services have been made available under arrangements made by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”;
 - (b) for the entry below paragraph 5.2(h) of column 1 in the table in Schedule 1 substitute—

“Where there is a combined party and party and legal aid, or a combined party and party and LSC, or a combined party and party and Lord Chancellor, or a combined party and party and one or more of legal aid, LSC or Lord Chancellor determination of costs, fee 5.2 will be attributed proportionately to the party and party, legal aid, LSC or Lord Chancellor (as the case may be) portions of the bill on the basis of the amount allowed.”;
 - (c) in paragraph 5.5 of column 1 in the table in Schedule 1, after “the Community Legal Service Fund” insert “or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”; and
 - (d) in the entry below paragraph 5.5 of column 1 in the table in Schedule 1, after “Community Legal Service Fund” insert “or against the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

Amendment of the Family Proceedings Fees Order 2008

8. In the Family Proceedings Fees Order 2008(c)—
- (a) in paragraph 8.1 of column 1 in the table in Schedule 1 (determination of costs) for “or is funded by the LSC” insert “, is funded by the LSC or is a person for whom civil legal services have been made available under arrangements made by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”;

(a) S.I. 2008/1863.

(b) S.I. 2008/1053 (L. 5). Schedule 1 was substituted by S.I. 2011/586 (L. 2).

(c) S.I. 2008/1054 (L. 6). Schedule 1 was substituted by S.I. 2010/1916 (L. 10).

(b) for the entry below paragraph 8.2 of column 1 in the table in Schedule 1, substitute—

“Where there is a combined standard basis and legal aid, or a combined standard basis and LSC, or a combined standard basis and Lord Chancellor, or a combined standard basis, and one or more of legal aid, LSC or Lord Chancellor determination of costs, fee 8.2 will be attributed proportionately to the standard basis, legal aid, LSC or Lord Chancellor (as the case may be) portions of the bill on the basis of the amount allowed.”;

(c) in paragraph 8.5 of column 1 in the table in Schedule 1, after “the Community Legal Service Fund” insert “or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”; and

(d) in the entry below paragraph 8.5 of column 1 in the table in Schedule 1, after “Community Legal Service Fund” insert “or against the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

Amendment of the Court Funds Rules 2011

9. In rule 28 of the Court Funds Rules 2011(a) (payment where the claimant’s legal representation has been funded by the Legal Services Commission)—

(a) in the heading, after “funded by the Legal Services Commission” insert “or provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”;

(b) in paragraph (1)(b), after “funded by the Legal Services Commission” insert “or provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”; and

(c) in paragraph (1)(c), after “regulation 18(1) of the Community Legal Service (Costs) Regulations 2000(b)” insert “or regulation 13(1) of the Civil Legal Aid (Statutory Charge) Regulations 2013”.

Amendment of the Equality Act 2010 (Specific Duties) Regulations 2011

10. In Schedule 1 to the Equality Act 2010 (Specific Duties) Regulations 2011(c) (public authorities required to publish information by 31st January 2012 and subsequently at intervals of not greater than one year) omit “The Legal Services Commission”.

Amendment of the Legal Services Act (Designation as a Licensing Authority) (No. 2) Order 2011

11. In article 6 of the Legal Services Act (Designation as a Licensing Authority) (No. 2) Order 2011(d) (powers of Solicitors Disciplinary Tribunal in respect of legal aid complaints) after “representation funded by the Legal Services Commission as part of the Criminal Defence Service” insert “or from providing criminal legal aid work (within the meaning of section 47(3C) of the 1974 Act)”.

Amendment of asset-freezing and financial sanctions subordinate legislation

12.—(1) In paragraph 5(1)(d) of the Schedule (general power to disclose information) to each enactment referred to in paragraph (2), omit “the Legal Services Commission,”.

(2) The enactments referred to in paragraph (1) are—

(a) the Afghanistan (Asset-Freezing) Regulations 2011(e);

(a) S.I. 2011/1734.

(b) S.I. 2000/441.

(c) S.I. 2011/2260.

(d) S.I. 2011/2866.

(e) S.I. 2011/1893.

- (b) the Belarus (Asset-Freezing) Regulations 2013(a);
- (c) the Democratic People’s Republic of Korea (Asset-Freezing) Regulations 2011(b);
- (d) the Democratic Republic of the Congo (Asset-Freezing) Regulations 2012(c);
- (e) the Egypt (Asset-Freezing) Regulations 2011(d);
- (f) the Eritrea (Asset-Freezing) Regulations 2012(e);
- (g) the Guinea-Bissau (Asset-Freezing) Regulations 2012(f);
- (h) the Iran (Asset-Freezing) Regulations 2011(g);
- (i) the Ivory Coast (Asset-Freezing) Regulations 2011(h);
- (j) the Lebanon and Syria (Asset-Freezing) Regulations 2012(i);
- (k) the Liberia (Asset-Freezing) Regulations 2012(j);
- (l) the Libya (Asset-Freezing) Regulations 2011(k);
- (m) the Libya (Financial Sanctions) Order 2011(l);
- (n) the Republic of Guinea (Asset-Freezing) Regulations 2012(m);
- (o) the Somalia (Asset-Freezing) Regulations 2010(n);
- (p) the Sudan (Asset-Freezing) Regulations 2012(o);
- (q) the Syria (European Union Financial Sanctions) Regulations 2012(p); and
- (r) the Tunisia (Asset-Freezing) Regulations 2011(q).

(3) In paragraph 5(1)(d) of Schedule 1 to the Iraq (Asset-Freezing) Regulations 2012(r) (general power to disclose information) omit “the Legal Services Commission,”.

(4) In the modifications made to the extension of Part 1 of the Terrorist Asset Freezing etc. Act 2010(s) (“the 2010 Act”) by Schedule 2 to the Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order 2011(t) (“the 2011 Order”) to the Territories specified in Schedule 1 to the 2011 Order, the substitution of section 23(1)(d) of the 2010 Act by paragraph 10 of Schedule 2 to the 2011 Order shall take effect as if the reference to the Legal Services Commission were omitted.

(5) In paragraph 34(1)(d) of the Schedule to the Iran (European Union Financial Sanctions) Regulations 2012(u) (general power to disclose information), omit “the Legal Services Commission,”.

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- (a) S.I. 2013/164.
 - (b) S.I. 2011/1094.
 - (c) S.I. 2012/1511.
 - (d) S.I. 2011/887.
 - (e) S.I. 2012/1515.
 - (f) S.I. 2012/1301.
 - (g) S.I. 2011/1129.
 - (h) S.I. 2011/1086.
 - (i) S.I. 2012/1517.
 - (j) S.I. 2012/1516.
 - (k) S.I. 2011/605.
 - (l) S.I. 2011/548.
 - (m) S.I. 2012/1508.
 - (n) S.I. 2010/2956.
 - (o) S.I. 2012/1507.
 - (p) S.I. 2012/129.
 - (q) S.I. 2011/888.
 - (r) S.I. 2012/1489.
 - (s) 2010 c. 38.
 - (t) S.I. 2011/750.
 - (u) S.I. 2012/925.

PART 2

Amendment of the Civil Procedure Rules 1998

13. In the Civil Procedure Rules 1998(a)—

- (a) in rule 42.2 (change of solicitor – duty to give notice) of the Civil Procedure Rules 1998—
 - (i) for paragraph (6)(a) substitute—

“(6) Where the certificate of a person to whom legal aid is provided is revoked or withdrawn—

 - (a) the solicitor who acted for that person will cease to be a solicitor acting in the case as soon as the solicitor’s retainer is determined under regulation 24 or 41 of the Civil Legal Aid (Procedure) Regulations 2012**(b)**; and”;
 - (ii) for paragraph (7) substitute—

“(7) “Certificate” in paragraph (6) means a certificate issued under the Civil Legal Aid (Procedure) Regulations 2012.”;
- (b) in paragraph (1)(d) of rule 74.13 (evidence in support) for “an assisted person or an LSC funded client, as defined in rule 43.2(1)(h) and (i)” substitute “a person to whom legal aid, as defined in rule 44.1, was provided”.

Amendment of the Non-Contentious Probate Fees Order 2004

14. In Schedule 1A to the Non-Contentious Probate Fees Order 2004(c)—

- (a) in paragraph 1(1)—
 - (i) in the definition of “child care costs”, for “the Criminal Defence Service (Financial Eligibility) Regulations 2006**(d)**” substitute “Part 3 of the Criminal Legal Aid (Financial Resources) Regulations 2013**(e)**”;
 - (ii) in the definition of “the Independent Living Funds”, for “has the meaning given in the Criminal Defence Service (Financial Eligibility) Regulations 2006” substitute “means any payment made from the funds listed at regulation 20(2)(b) of the Criminal Legal Aid (Financial Resources) Regulations 2013”;
 - (iii) omit the definition of “the Funding Code”; and
 - (iv) omit the definition of “LSC”; and
- (b) in paragraph 1(2), for “who is in receipt of funding provided by the LSC for the purposes of the proceedings for which a certificate has been issued under the Funding Code” substitute “for whom civil legal services, for which a certificate has been issued under the Civil Legal Aid (Procedure) Regulations 2012, have been made available under arrangements made for the purposes of Part 1 of that Act for the purposes of the proceedings”.

Amendment of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005

15. In the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005(f)—

- (a) in article 149(6)(b) (property freezing orders: exclusions) for “funded by the Legal Services Commission or” substitute “made available under arrangements made for the

(a) S.I. 1998/3132 (L. 17). Paragraph (6) and (7) of rule 42.2 was substituted by S.I. 2000/1317 (L. 11) and rule 74.13 was inserted by S.I. 2002/2058 (L. 10).

(b) S.I. 2012/3098.

(c) S.I. 2004/3120 (L. 22). Schedule 1A was inserted by S.I. 2007/2174 (L. 14) and substituted by S.I. 2009/1497 (L. 14).

(d) S.I. 2006/2492.

(e) S.I. 2013/471.

(f) S.I. 2005/3181.

purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 or be funded by”; and

- (b) in article 157(5)(b) (interim receiving orders: restrictions on dealing etc with property) for “funded by the Legal Services Commission or” substitute “made available under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 or be funded by”.

Amendment of the Fines Collection Regulations 2006

16. In the modification of rule 15 (consolidated attachment orders) of the Magistrates’ Courts (Attachment of Earnings) Rules 1971(a) made by regulation 30(g)(viii) of the Fines Collection Regulations 2006(b), for “under section 17(2) of the Access to Justice Act 1999 (recovery of criminal defence costs in publicly funded cases)” substitute “under the Criminal Legal Aid (Recovery of Defence Costs) Regulations 2013(c)”.

Amendment of the Court of Protection Rules 2007

17. In the Court of Protection Rules 2007(d)—

- (a) in rule 6 (interpretation) for the definition of “LSC funded client” substitute—
 - ““legally aided person” means a person to whom civil legal services (within the meaning of the Legal Aid, Sentencing and Punishment of Offenders Act 2012) have been made available under arrangements made for the purposes of Part 1 of that Act);”;
- (b) for the heading to rule 151 (LSC funded clients) substitute “Legally aided persons”;
- (c) in paragraph (1) of rule 151, for “who is an LSC funded client is revoked or discharged” substitute “who is a legally aided person is revoked or withdrawn”;
- (d) in paragraph (1)(a) of rule 151, for “under regulation 4 of the Community Legal Services (Costs) Regulations 2000” substitute “under regulation 24 or 41 of the Civil Legal Aid (Procedure) Regulations 2012”; and
- (e) for paragraph (2) of rule 151 substitute—
 - “(2) In this rule, “certificate” means a certificate issued under the Civil Legal Aid (Procedure) Regulations 2012.”.

Amendment of the Civil Proceedings Fees Order 2008

18. In Schedule 2 to the Civil Proceedings Fees Order 2008—

- (a) in paragraph 1(1)—
 - (i) in the definition of “child care costs”, for “the Criminal Defence Service (Financial Eligibility) Regulations 2006” substitute “Part 3 of the Criminal Legal Aid (Financial Resources) Regulations 2013”;
 - (ii) in the definition of “the Independent Living Funds”, for “has the meaning given in the Criminal Defence Service (Financial Eligibility) Regulations 2006” substitute “means any payment made from the funds listed at regulation 20(2)(b) of the Criminal Legal Aid (Financial Resources) Regulations 2013”; and
 - (iii) omit the definition of “the Funding Code”; and
- (b) in paragraph 1(2)(a), for “who is in receipt of funding provided by the LSC for the purposes of the proceedings for which a certificate has been issue under the Funding Code” substitute “for whom civil legal services, for which a certificate has been issued under the Civil Legal Aid (Procedure) Regulations 2012, have been made available under

(a) S.I. 1971/809.

(b) S.I. 2006/501.

(c) S.I. 2013/511.

(d) S.I. 2007/1744 (L. 12).

arrangements made for the purposes of Part 1 of that Act for the purposes of the proceedings”.

Amendment of the Family Proceedings Fees Order 2008

19. In Schedule 2 to the Family Proceedings Fees Order 2008—

- (a) in paragraph 1(1)—
 - (i) in the definition of “child care costs”, for “the Criminal Defence Service (Financial Eligibility) Regulations 2006” substitute “Part 3 of the Criminal Legal Aid (Financial Resources) Regulations 2013”;
 - (ii) in the definition of “the Independent Living Funds”, for “has the meaning given in the Criminal Defence Service (Financial Eligibility) Regulations 2006” substitute “means any payment made from the funds listed at regulation 20(2)(b) of the Criminal Legal Aid (Financial Resources) Regulations 2013”; and
 - (iii) omit the definition of “the Funding Code”; and
- (b) in paragraph 1(2)(a), for “who is in receipt of funding provided by the LSC for the purposes of the proceedings for which a certificate has been issue under the Funding Code” substitute “for whom civil legal services, for which a certificate has been issued under the Civil Legal Aid (Procedure) Regulations 2012, have been made available under arrangements made for the purposes of Part 1 of that Act for the purposes of the proceedings”.

Amendment of the Magistrates’ Courts Fees Order 2008

20. In Schedule 2 to the Magistrates’ Courts Fees Order 2008(a)—

- (a) in paragraph 1(1)—
 - (i) in the definition of “child care costs”, for “the Criminal Defence Service (Financial Eligibility) Regulations 2006” substitute “Part 3 of the Criminal Legal Aid (Financial Resources) Regulations 2013”;
 - (ii) in the definition of “the Independent Living Funds”, for “has the meaning given in the Criminal Defence Service (Financial Eligibility) Regulations 2006” substitute “means any payment made from the funds listed at regulation 20(2)(b) of the Criminal Legal Aid (Financial Resources) Regulations 2013”;
 - (iii) omit the definition of “the Funding Code”;
 - (iv) omit the definition of “LSC”; and
- (b) in paragraph 1(2)(a), for “who is in receipt of funding provided by the LSC for the purposes of the proceedings for which a certificate has been issue under the Funding Code” substitute “for whom civil legal services, for which a certificate has been issued under the Civil Legal Aid (Procedure) Regulations 2012, have been made available under arrangements made for the purposes of Part 1 of that Act for the purposes of the proceedings”.

Amendment of the Supreme Court Fees Order 2009

21. For paragraph 1(2)(a) of Schedule 2 to the Supreme Court Fees Order 2009(b) (remissions and part remissions: interpretation) substitute—

“(a) for whom civil legal services, for which a certificate has been issued under the Civil Legal Aid (Procedure) Regulations 2012, have been made available under arrangements made for the purposes of Part 1 of that Act for the purposes of the proceedings;”.

(a) S.I. 2008/1052 (L. 4).

(b) S.I. 2009/2131 (L. 25).

Amendment of the Family Procedure Rules 2010

22. In the Family Procedure Rules 2010(a)—

- (a) in paragraph (1)(a)(vi) of rule 12.73 (communication of information: general) for “the Legal Services Commission” substitute “the Director of Legal Aid Casework (within the meaning of section 4 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012)”;
- (b) in paragraph (c)(vi) of rule 14.14(c) (communication of information relating to proceedings) for “the Legal Services Commission” substitute “the Director of Legal Aid Casework (within the meaning of section 4 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012)”;
- (c) in rule 26.2 (change of solicitor – duty to give notice)—
 - (i) in paragraph (6), for “LSC funded client or an assisted person” substitute “legally aided person”;
 - (ii) in paragraph (6); for “is revoked or discharged” substitute “is revoked or withdrawn”;
 - (iii) in paragraph (6)(a), for “regulation 4 of the Community Legal Service (Costs) Regulations 2000” substitute “regulation 24 or 41 of the Civil Legal Aid (Procedure) Regulations 2012”;
 - (iv) in the definition of “certificate” in paragraph (7) for “under the Funding Code (approved under section 9 of the Access to Justice Act 1999)” substitute “under the Civil Legal Aid (Procedure) Regulations 2012”; and
 - (v) omit the definition of “assisted person” and “LSC funded client” in paragraph (7) and insert—

““legally aided person” means a person to whom civil legal services (within the meaning of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012) have been made available under arrangements made for the purposes of that Part of that Act.”.

Amendment of the First-tier Tribunal (Immigration and Asylum Chamber) Fees Order 2011

23. For article 5(3)(a) of the First-tier Tribunal (Immigration and Asylum Chamber) Fees Order 2011(b) (exemption from fees) substitute—

- “(a) civil legal services (within the meaning of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012) made available under arrangements made for the purposes of that Part of that Act;”.

Amendment of the Upper Tribunal (Immigration and Asylum Chamber) (Judicial Review) (England and Wales) Fees Order 2011

24. In Schedule 2 to the Upper Tribunal (Immigration and Asylum Chamber) (Judicial Review) (England and Wales) Fees Order 2011(c)—

- (a) in paragraph 1(1)—
 - (i) in the definition of “child care costs”, for “the Criminal Defence Service (Financial Eligibility) Regulations 2006” substitute “Part 3 of the Criminal Legal Aid (Financial Resources) Regulations 2013”;
 - (ii) in the definition of “the Independent Living Funds”, for “has the meaning given in the Criminal Defence Service (Financial Eligibility) Regulations 2006” substitute

(a) S.I. 2010/2955 (L. 17).

(b) S.I. 2011/2841.

(c) S.I. 2011/2344.

“means any payment made from the funds listed at regulation 20(2)(b) of the Criminal Legal Aid (Financial Resources) Regulations 2013”; and

- (iii) omit the definition of “the Funding Code”; and
- (b) in paragraph 1(2), for “who is in receipt of funding provided by the LSC for the purposes of the proceedings for which a certificate has been issued under the Funding Code” substitute “for whom civil legal services, for which a certificate has been issued under the Civil Legal Aid (Procedure) Regulations 2012, have been made available under arrangements made for the purposes of Part 1 of that Act for the purposes of the proceedings”.

Amendment of the Magistrates’ Courts (Enforcement or Variation of Orders Made in Family Proceedings and Miscellaneous Provisions) Rules 2011

25. In paragraph 11(1)(d) of Schedule 4 to the Magistrates’ Courts (Enforcement or Variation of Orders Made in Family Proceedings and Miscellaneous Provisions) Rules 2011(a) (confidentiality of documents) for “the Legal Services Commission” substitute “the Director of Legal Aid Casework (within the meaning of section 4 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012)”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Consequential, Transitional and Saving Provisions) Regulations 2013 (“the Regulations”) make transitional and saving provisions, and consequential amendments to secondary legislation, in connection with the replacement of the legal aid scheme under Part 1 of the Access to Justice Act 1999 (c. 12) (“the 1999 Act”) by the provisions of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“the Act”). Part 1 of the Act (with the exception of section 19(4)) is commenced on 1st April 2013 by article 3(a) and (e) to (i) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 6) Order 2013 (S.I. 2013/453 (C. 19); “the Commencement No. 6 Order”).

The Regulations make provision about the treatment of legal aid applications made before 1st April 2013 when Part 1 of the Act comes into force (referred to in the Regulations as pre-commencement cases). A pre-commencement case is defined in regulation 2 of the Regulations and regulations 3 to 5 make further provision about pre-commencement cases.

Regulation 6(1) provides that, subject to regulation 6(4) and (5) and subject to regulations 7 to 13, the provisions in Part 1 of the Act commenced by article 3(a) and (e) to (i) of the Commencement No. 6 Order, with the exception of section 38(1) of the Act (abolition of Legal Services Commission), do not apply to pre-commencement cases. Part 1 of the 1999 Act and the Legal Aid Act 1988 and all orders, regulations, guidance, directions or authorisations made or given under them, in so far as they were in force immediately before 1st April 2013, continue to apply to a pre-commencement case, as does any power or duty to make orders or regulations or give guidance, directions or authorisations. Regulation 6(4) and (5) sets out provisions repealed or amended by Part 1 of the Act that do apply to pre-commencement cases.

On 1st April 2013 the Legal Services Commission (“the Commission”) will be abolished with the commencement of section 38(1) of the Act. Regulation 7 makes provision, in relation to a pre-commencement case, about the exercise of powers, duties and other functions of the Commission that were exercisable by the Commission before 1st April 2013. Regulation 7(1) and (2) provides for the exercise of powers etc under Part 1 of the 1999 Act by the Director and the Lord Chancellor. Regulation 7(3) does the same in relation to powers etc under the Legal Aid Act 1988. Regulation 7(4) and (5) allows the Director of Legal Aid Casework and the Lord Chancellor to

(a) S.I. 2011/1329 (L. 10).

authorise others to exercise powers, duties or other functions on their behalf and ensures that the delegations conferred by the Commission continue to have effect as such authorisations.

Regulation 9 makes provision about financial eligibility in a pre-commencement case under the Community Legal Service.

Regulation 10 modifies the provisions of, and made under, section 25 of the Act about the statutory charge in circumstances where both civil legal services under Part 1 of the Act and funded services under the Community Legal Service have been provided.

Regulation 11 provides that where an application for funding under the Criminal Defence Service is not considered until after 31st March 2013, it is treated as an application for criminal legal aid under Part 1 of the Act. Regulation 12 provides that where, in the same proceedings, there is both a grant of a right to representation under Part 1 of the 1999 Act and a determination for representation for the purposes of criminal proceedings under Part 1 of the Act, the Criminal Defence Service (Funding) Order 2007 (S.I. 2007/1174) applies and the Criminal Legal Aid (Remuneration) Regulations 2013 (S.I. 2013/435) do not apply.

Regulation 13 provides that an exclusion under section 42 of the Administration of Justice Act 1985 (c. 61) or section 47 of the Solicitors Act 1974 (c. 47) from providing services under the Legal Aid Act 1988 or from providing representation as part of the Criminal Defence Service also takes effect as an exclusion from criminal legal aid work under Part 1 of the Act.

Regulation 14 and the Schedule make consequential amendments to secondary legislation.

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