
STATUTORY INSTRUMENTS

2013 No. 512

**LEGAL AID AND ADVICE,
ENGLAND AND WALES**

**The Legal Aid (Financial Resources and Payment
for Services) (Legal Persons) Regulations 2013**

<i>Made</i>	- - - -	<i>6th 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 5(4), 21, 23 and 41 of, and paragraphs 4, 6 and 7 of Schedule 3 ^{M1} to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ^{M2}.

Marginal Citations

- M1** Paragraph 6 of Schedule 3 (legal aid for legal persons) provides that section 21 of the [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#) applies for the purposes of a determination under paragraph 3(1)(b) or 5(2)(b) or under regulations made under paragraph 4 of that Schedule. Paragraph 7 of Schedule 3 provides that in section 23 of the Act references to an individual include a legal person.
- M2** [2012 c. 10](#). Section 42(1) of the Act provides that in Part 1 of the Act “regulations” means regulations made by the Lord Chancellor.

PART 1

Interpretation and General

Citation and commencement

1. These Regulations may be cited as the Legal Aid (Financial Resources and Payment for Services) (Legal Persons) Regulations 2013 and come into force on 1st April 2013.

Interpretation

2. In these Regulations—

- “the Act” means the Legal Aid, Sentencing and Punishment of Offenders Act 2012;
- “civil legal aid” means civil legal services required to be made available under paragraph 3 of Schedule 3 (legal aid for legal persons) to the Act; and
- “criminal legal aid” means advice, assistance and representation required to be made available under paragraph 4 or 5 of Schedule 3 to the Act.

Delegation

3. A function of the Director under these Regulations may be exercised by a person authorised for that purpose by the Director, or by an employee of that person ^{M3}.

Marginal Citations

M3 Section 6 of the Act (authorisations) makes provision for authorisations given for the purpose of section 5 of the Act (delegation) or regulations under that section.

Provision of information

4.—(1) The Director may at any time require a legal person to provide information in relation to a determination made under paragraph 3(1)(b), 4(1)(c) or 5(2)(b) of Schedule 3 to the Act, or any application for such a determination.

(2) The information which the legal person is required to provide in accordance with these Regulations includes, but is not limited to, information relating to—

- (a) the form of the legal person and, in particular, whether it is profit-making or not;
- (b) the financial resources of the legal person, including its assets and profits;
- (c) the financial resources of any subsidiary of the legal person or any other related legal person;
- (d) the financial resources of any person with a legal or beneficial interest in the legal person; and
- (e) the ability of the legal person to obtain sufficient means to fund the services in relation to which an application for civil or criminal legal aid has been made (whether by way of a loan, sale of shares, sale of share capital or any other method).

(3) The legal person must provide the Director with such information as the Director may request for the purposes of paragraph (1) within fourteen days of the Director making the request, or such other period as may be agreed by the Director and the legal person.

Deprivation or conversion of resources

5. If it appears to the Director that the legal person or any person whose resources are to be treated as the legal person's resources in accordance with regulation 16 has, with intent to reduce the amount of its financial resources, whether for the purpose of making the legal person eligible for civil or criminal legal aid, reducing its liability (where applicable) to pay a contribution, or otherwise—

- (a) directly or indirectly deprived themselves of any resources;
- (b) transferred any resources to another person; or
- (c) in relation to civil legal aid, converted any part of their resources into resources which under Part 2 of these Regulations are to be wholly or partly disregarded,

those resources must be treated as part of the resources of the legal person or as not so converted as the case may be.

Duty to report change in circumstances

6. The legal person must immediately inform the Director of any change in the legal person's circumstances (or those of any person whose resources are to be treated as the legal person's resources in accordance with regulation 16)—

- (a) of which the legal person is, or should reasonably be, aware;
- (b) which has occurred since any application or determination in respect of the legal person's financial resources; and
- (c) which might affect a determination that the legal person's financial resources are such that the legal person is eligible for civil or criminal legal aid or the amount, if any, of any contribution payable.

Amendment of determination due to error or receipt of new information

7.—(1) Where—

- (a) it appears to the Director that there has been an error in a determination in respect of a legal person's financial resources or the amount of any contribution payable, or in any calculation or estimate upon which that determination was based; or
- (b) new information which is relevant to the determination in respect of a legal person's financial resources has come to light,

the Director may amend the determination.

(2) The Director may take such steps as appear equitable to give effect to the amended determination under paragraph (1) in relation to any period during which civil or criminal legal aid has already been provided.

PART 2

Civil legal aid for legal persons

CHAPTER 1

Financial eligibility limits and waivers

Interpretation

8.—(1) In this Part—

“application” means an application for a determination in respect of civil legal services made in accordance with regulations made under section 12 of the Act ^{M4};

“certificate” means a certificate issued under regulations made under section 12 of the Act;

“CPR” means the Civil Procedure Rules 1998 ^{M5} and a reference to a Part or a rule, prefixed by “CPR”, means the Part or rule so numbered in the CPR;

“disposable income” and “disposable capital” mean, respectively, the income and capital of the legal person calculated in accordance with regulations 19 to 28;

“multi-party action” means proceedings in which a number of persons have a cause of action which involves common or related issues of fact or law; and

“revocation” means the withdrawal of a determination in circumstances in which the Director has exercised the power to revoke the determination under regulations made under section 12 of the Act (and “revoked” has the equivalent meaning).

- (2) For the purposes of this Part, a case is of significant wider public interest if the Director is satisfied that the case is an appropriate case to realise—
- (a) real benefits to the public at large, other than those which normally flow from cases of the type in question; and
 - (b) benefits for an identifiable class of persons, other than the legal person to whom civil legal services may be provided.
- (3) A reference in this Part to a form of civil legal services means—
- (a) legal help;
 - (b) help at court;
 - (c) family help (lower);
 - (d) family help (higher);
 - (e) family mediation;
 - (f) help with family mediation;
 - (g) legal representation; and
 - (h) other legal services,

which are further defined in Part 2 of the Civil Legal Aid (Merits Criteria) Regulations 2013 ^{M6}.

Marginal Citations

- M4** [The Civil Legal Aid \(Procedure\) Regulations 2012 \(S.I. 2012/3098\)](#).
M5 [S.I. 1998/3132](#). There have been numerous amendments, with the relevant Parts of the CPR consolidated, in amended form, in [S.I. 2013/262](#).
M6 [S.I. 2013/104](#).

Determination in respect of a legal person's financial resources

9.—(1) This Part applies for the purposes of determining whether a legal person qualifies for civil legal services under paragraph 3(1)(b) of Schedule 3 to the Act.

(2) Subject to regulation 10, the Director must determine whether the legal person's financial resources are such that the legal person is eligible for civil legal services in accordance with these Regulations.

Exceptions from requirement to make a determination in respect of a legal person's financial resources

10. The following forms of civil legal services are available without a determination in respect of a legal person's financial resources—

- (a) legal representation in relation to a matter which, if the legal person were an individual, would be a matter described in paragraph 17(1)(a) and (b) (EU and international agreements concerning children) of Part 1 of Schedule 1 to the Act, to the extent that the matter relates to an applicant under the 1980 European Convention on Child Custody ^{M7} or 1980 Hague Convention ^{M8};
- (b) legal representation in a case in which the applicant is a legal person who, in the State of origin, has benefited from complete or partial legal aid, or exemption from costs or expenses, in relation to a matter which, if the legal person were an individual, would be a matter described in—

- (i) paragraph 17(1)(c) (EU and international agreements concerning children) of Part 1 of Schedule 1 to the Act; or
- (ii) paragraph 18(1)(a), (c), (d) and (e) (EU and international agreements concerning maintenance) of Part 1 of Schedule 1 to the Act;
- (c) family help (higher) or legal representation in relation to a matter which, if the legal person were an individual, would be a matter described in paragraph 18(3) (parties who benefited from free legal aid etc. in the Member State of origin) of Part 1 of Schedule 1 to the Act; and
- [^{F1}(ca) family help (higher) or legal representation in relation to a matter which, if the legal person were an individual, would be a matter described in paragraph 18(3A) (applications under Article 10 of the 2007 Hague Convention) of Part 1 of Schedule 1 to the Act, where—
 - (i) the matter relates to any application under Article 10(1)(a) or (b) of the 2007 Hague Convention; and
 - (ii) Article 17(b) of that Convention applies;]
- (d) legal help, family help (lower), family help (higher) and legal representation in relation to a matter which, if the legal person were an individual, would be a matter described in paragraph 18(2) (EU and international agreements concerning maintenance) of Part 1 of Schedule 1 to the Act, to the extent that the matter—
 - (i) relates to any application under Article 56(1) of the EU Maintenance Regulation ^{M9}; and
 - (ii) is an application made by a creditor concerning maintenance obligations arising from a parent-child relationship towards a person under the age of 21^{F2}; and
- (da) legal help, family help (lower), family help (higher) and legal representation in relation to a matter which, if the legal person were an individual, would be a matter described in paragraph 18(3A) (applications under Article 10 of the 2007 Hague Convention) of Part 1 of Schedule 1 to the Act, where the matter—
 - (i) relates to any application under Article 10(1)(a) or (b) of the 2007 Hague Convention; and
 - (ii) is an application made by a creditor under the 2007 Hague Convention concerning maintenance obligations arising from a parent-child relationship towards a person under the age of 21].

Textual Amendments

- F1** Reg. 10(ca) inserted (1.4.2013) by [The Legal Aid \(Financial Resources and Payment for Services\) \(Legal Persons\) \(Amendment\) Regulations 2013 \(S.I. 2013/754\)](#), regs. 1, **2(2)(a)**
- F2** Reg. 10(da) and word inserted (1.4.2013) by [The Legal Aid \(Financial Resources and Payment for Services\) \(Legal Persons\) \(Amendment\) Regulations 2013 \(S.I. 2013/754\)](#), regs. 1, **2(2)(b)**

Marginal Citations

- M7** The 1980 European Convention on Child Custody is defined in paragraph 17(3) of Part 1 of Schedule 1 to the Act to mean the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on the Restoration of Custody of Children which was signed in Luxembourg on 20 May 1980.
- M8** The 1980 Hague Convention is defined in paragraph 17(3) of Part 1 of Schedule 1 to the Act to mean the Convention on the Civil Aspects of International Child Abduction which was signed at The Hague on 25 October 1980.
- M9** The EU Maintenance Regulation is defined in paragraph 18(5) of Part 1 of Schedule 1 to the Act to mean Council Regulation (EC) No. 4/2009 of 18 December 2008 on jurisdiction, applicable

law, recognition and enforcement of decisions and co-operation in matters relating to maintenance obligations.

Financial eligibility limit

11.—(1) The Director must not determine that the legal person's financial resources are such that the legal person is eligible for civil legal services unless—

- (a) the conditions in paragraph (2) and (3) are met; and
- (b) the Director is satisfied that the legal person is not able reasonably to obtain from any source sufficient means to fund the services in relation to which an application has been made.

(2) This condition is met if the disposable income of the legal person does not exceed £733 a month.

(3) This condition is met if the amount of the disposable capital of the legal person does not exceed £8,000.

Waiver of eligibility limit in multi-party actions of significant wider public interest

12. Where an application is made for legal representation in a multi-party action which the Director considers has a significant wider public interest, the Director may, if the Director considers it equitable to do so, do one or both of the following —

- (a) disapply the eligibility limits in regulation 11 in respect of those services in relation to specific issues within the multi-party action; and
- (b) waive all or part of any contributions payable under regulation 29.

CHAPTER 2

Making a determination in respect of a legal person's financial resources

Provision of information

13.—(1) Where an application is made, or a further determination falls to be made under regulation 17, the legal person must provide the Director with the information necessary to enable the Director to—

- (a) make the determination referred to in regulation 9(2); and
- (b) calculate the disposable income and disposable capital of the legal person.

(2) In particular, the legal person must provide to the Director a document which sets out the likely costs of the services in relation to which an application has been made.

Calculations

14.—(1) The Director must—

- (a) calculate the disposable income and disposable capital of the legal person in accordance with regulations 19 to 28; and
- (b) calculate any contributions payable in accordance with regulations 29 and 30.

(2) When calculating the disposable income for the purposes of regulation 11(2), the period of calculation is one month.

(3) For the purposes of this regulation, one month means the period of one calendar month which ends on the date on which the application is made, or such other equivalent period as the Director considers appropriate.

Application in representative, fiduciary or official capacity

15.—(1) Sub-paragraph (2) applies where the legal person is acting in a representative, fiduciary or official capacity.

(2) The Director, in calculating the legal person's disposable income and disposable capital, and the amount of any contribution to be paid—

- (a) subject to sub-paragraph (c), must not take the personal resources of the legal person acting in such a capacity into account unless the Director considers that the legal person might benefit from the proceedings;
- (b) must have regard to the value of any property or estate, or the amount of any fund, out of which that legal person is entitled to be indemnified; and
- (c) may also have regard to the resources of any person who has a beneficial interest in that property, estate or fund.

Resources to be treated as the legal person's resources

16.—(1) In calculating the disposable income and disposable capital of the legal person, the Director may—

- (a) treat all or any part of the resources of the following persons as the legal person's resources—
 - (i) any person with a legal or beneficial interest in the legal person;
 - (ii) any directors of the legal person; and
 - (iii) any subsidiary of the legal person or any other related legal person; and
- (b) may assess or estimate the value of those resources as well as the Director is able.

(2) Where it appears to the Director that—

- (a) another person is, has been or is likely to be substantially maintaining the legal person or any person whose resources are to be treated as the legal person's resources under this regulation;
- (b) any of the resources of another person have been or are likely to be made available to the legal person or any person whose resources are to be treated as the legal person's resources under this regulation; or
- (c) another person has the same or similar interest to the legal person in the proceedings or might benefit from the proceedings,

the Director may treat all or any part of the resources of that other person as the resources of the legal person, and may assess or estimate the value of those resources as well as the Director is able.

(3) For the purposes of this regulation, the Director may assess the value of the resources of an individual in accordance with the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013^{M10}.

(4) A reference to “legal person” in regulations 19 to 24, 27 and 28 is a reference to—

- (a) the legal person in respect of whom the determination about financial resources is being made; and
- (b) any legal person whose resources are to be treated as the legal person's resources under this regulation.

Marginal Citations

M10 S.I. 2013/480.

Further determinations

17.—(1) Where—

- (a) the Director has determined under regulation 11 that the legal person's financial resources are such that the legal person is eligible to receive civil legal services; and
- (b) it appears to the Director that the circumstances of the legal person may have changed so that—
 - (i) its normal disposable income may have increased by an amount greater than £60 or decreased by an amount greater than £25;
 - (ii) its disposable capital may have increased by an amount greater than £750; or
 - (iii) the Director is no longer satisfied that the legal person is not able reasonably to obtain from any source sufficient means to fund the services in relation to which an application has been made,

the Director must, subject to paragraph (6), make a further determination in respect of the legal person's financial resources, and the contribution (if any) payable in accordance with these Regulations.

(2) For the purposes of the further determination under paragraph (1), the period of calculation must be the period of one month following the date of the change of circumstances or such other period of one month as the Director considers appropriate.

(3) Where a further determination is made, the amount or value of every resource of a capital nature acquired since the date of the original application must be ascertained as at the date of receipt of that resource.

(4) Any contribution out of capital in accordance with regulation 29(3) which becomes payable as a result of a further determination must be paid in respect of the cost of the civil legal services, including costs already incurred.

(5) Where a determination in relation to which a certificate was issued is withdrawn as a result of a further determination, the Director may require a contribution to be paid in respect of costs already incurred.

(6) The Director may decide not to make a further determination under paragraph (1) if the Director considers such a further determination inappropriate, having regard in particular to the period during which civil legal services are likely to continue to be provided to the legal person.

Withdrawal

18.—(1) The Director must withdraw a determination under paragraph 3(1)(b) of Schedule 3 to the Act if the Director is satisfied that the legal person is able reasonably to obtain from any source sufficient means to fund the services in relation to which an application has been made.

(2) The Director must withdraw a determination under paragraph 3(1)(b) of Schedule 3 to the Act if a legal person fails to comply with any request for information made in accordance with these Regulations, unless the Director is satisfied that there are good reasons not to do so.

(3) Where the Director withdraws a determination, the Director must provide written notification of the withdrawal to the legal person in whose favour the original determination was made.

CHAPTER 3

Calculation of disposable income and disposable capital

Calculation of disposable income

19.—(1) Subject to paragraphs (3) and (4), the Director must calculate the disposable income of the legal person by whichever method the Director considers to be both equitable and practicable, having regard to—

- (a) the amount the legal person has earned or will earn, including any profits which have accrued or will accrue to the legal person;
- (b) the amount of any entitlements that have accrued, or will accrue, to the legal person; and
- (c) any other sums from any source which the legal person has received, or is likely to receive,

in respect of the period of calculation (referred to in regulation 14(2) and (3)) but in calculating such income the Director may have regard to the average income of the legal person during such other period as the Director considers appropriate.

(2) In calculating any profits under paragraph (1)(a)—

- (a) the Director may have regard to the profits of the last accounting period for which accounts have been prepared; and
- (b) there must be deducted all sums necessarily expended to earn those profits, but no deduction may be made in respect of the living expenses of any person with a legal or beneficial interest in the legal person or any member of their family or household, except in so far as such member of their family or household is wholly or mainly employed by the legal person and such living expenses form part of that member's remuneration.

(3) Subject to paragraph (4), in calculating the disposable income of the legal person, any income tax, corporation tax and national insurance contribution paid on that income in respect of the period of calculation must be deducted.

(4) Where an application is made for legal representation, in calculating the disposable income of the legal person any income tax, corporation tax and national insurance contribution payable on that income in respect of the period of calculation must be deducted.

(5) For the purposes of this regulation, “national insurance contributions” means contributions under Part 1 of the Social Security Contributions and Benefits Act 1992 ^{M11}.

Marginal Citations

M11 1992 c. 4.

Disposable capital

20. The disposable capital of a legal person must be taken to be—

- (a) such sum as could be withdrawn from the resources of the legal person without substantially impairing its profits or normal development; and
- (b) such sum as the legal person could borrow on the security of its resources without substantially injuring its commercial credit or the conduct of its normal activities.

Calculating disposable capital

21. Subject to the provisions of these Regulations, in calculating the resources of the legal person, the amount or value of every resource of a capital nature belonging to the legal person on the date on which the application is made must be included.

Value of resource of a capital nature

22. In so far as any resource of a capital nature does not consist of money, its value must be taken to be—

- (a) the amount which that resource would realise if sold; or
- (b) the value assessed in such other manner as appears to the Director to be equitable.

Interest in common property

23. Subject to regulation 24, in calculating the value of the interest of the legal person in any resource of a capital nature which the legal person owns jointly or in common with any other person, the Director may treat that resource as being owned—

- (a) in equal shares; or
- (b) in such other proportions as appear to the Director to be equitable.

Value of the business etc

24.—(1) Paragraph (2) applies where an application is made for legal representation.

(2) Where the legal person owns solely, jointly or in common with other persons, any interest on the termination of a prior estate—

- (a) whether—
 - (i) legal or equitable;
 - (ii) vested or contingent; or
 - (iii) in reversion or remainder; and
- (b) whether in real or personal property or in a trust or other fund,

the Director must calculate the value of such interest in such manner as appears to the Director to be both equitable and practicable.

Interest in land

25.—(1) In calculating the sum referred to in regulation 20(a), the value of any interest in land must be taken to be the amount for which that interest could be sold after deducting, subject to paragraph (2), the amount of any debt secured by a mortgage or charge on the property.

(2) The total amount to be deducted under this regulation on an assessment of the resources of the legal person may not exceed £100,000 in respect of all secured debts.

Subject matter of the dispute disregarded

26.—(1) Subject to paragraph (2), in calculating the resources of the legal person, the amount or value of the subject matter of the dispute to which the application relates must be disregarded.

- (2) The total amount to be disregarded under this regulation must not exceed £100,000.

Discretion to disregard interim payments

27. Where an application is made for legal representation, in calculating the resources of the legal person, any interim payment made to the legal person in any court proceedings may be disregarded.

Discretion to disregard restrained assets

28. Where an application is made for legal representation, in calculating the resources of the legal person, any capital resource may be disregarded where—

- (a) the legal person is restrained from dealing with that resource by order of the court;
- (b) the legal person has requested the court which made the order to release all or part of that resource for use in connection with the proceedings to which the application relates; and
- (c) that request has been refused.

CHAPTER 4

Payment for services

Contributions

29.—(1) Subject to regulation 17, all contributions must be—

- (a) assessed at the beginning of the case; and
- (b) paid to the Lord Chancellor.

(2) Where—

- (a) an application is made for legal representation; and
- (b) the disposable income of the legal person exceeds £315,

the legal person must pay the following contributions—

- (i) 35% of any such income between £311 and £465;
- (ii) 45% of any such income between £466 and £616;
- (iii) 70% of any remaining income.

(3) Where—

- (a) an application is made for legal representation; and
- (b) the disposable capital of the legal person exceeds £3,000,

the legal person must pay a contribution of the lesser of the excess and the sum which the Director considers to be the likely maximum cost of the civil legal services provided to the legal person.

(4) All contributions under paragraph (2) must be paid monthly throughout the period that the determination in relation to which a certificate was issued is in force beginning with the day that the legal person accepts the condition to which the determination is made subject to pay the required contribution.

(5) All contributions under paragraph (3) must be paid on acceptance of the condition to which the determination is made subject that the legal person pays the required contribution.

(6) Paragraph (7) applies where—

- (a) an application is made for legal representation; and
- (b) the Director considers that—

- (i) there are other persons or bodies, including those who have the same or a similar interest to the legal person or who might benefit from any proceedings, who can reasonably be expected to contribute to the cost of the civil legal services; or

(ii) some other source of funding exists which could be used to contribute to that cost.

(7) Where this paragraph applies, the Director may add a reasonable additional amount to the contribution (if any) due from the legal person.

(8) The Director may subsequently vary the amount of any additional contribution payable under paragraph (7).

(9) The Director may, if the Director considers it equitable to do so, waive all or part of the contributions payable under this regulation, if—

- (a) the Director was satisfied, in determining that the legal person qualified for legal representation, that the proceedings had a significant wider public interest; and
- (b) in making that determination, the Director took into account that there were other claimants or potential claimants who might benefit from the proceedings.

Contributions where more than one certificate in force

30. Where more than one certificate is in force in respect of the legal person at any one time, contributions from income under only one certificate are payable, and the Director may decide under which certificate contributions must be paid.

Repayment of excess contributions

31.—(1) Where a determination in relation to which a certificate was issued has been withdrawn and the contribution paid by the legal person exceeds the net cost of the civil legal services provided, the excess must be refunded to the legal person.

(2) The net cost of the civil legal services means the cost paid by the Lord Chancellor less any costs recovered by the Lord Chancellor from another party.

(3) For the purposes of this regulation, where a determination in relation to which a certificate was issued is withdrawn (but not revoked) the cost of the civil legal services does not include the cost of assessment proceedings, other than the cost of drawing up a bill for the purpose of those proceedings, under the—

- (a) CPR, Part 47; or
- (b) Supreme Court Rules, Part 7^{M12}.

Marginal Citations

M12 [S.I. 2009/1603](#) (L. 17).

Consequences of revocation

32. Where the Director has revoked a determination in relation to which a certificate was issued—

- (a) the legal person must pay to the Lord Chancellor all costs paid or payable by the Lord Chancellor under the certificate, less any amount already paid by way of contribution; and
- (b) the provider specified in the certificate has the right to recover from the legal person the difference between the amount paid or payable to the provider by the Lord Chancellor and the full amount of the provider's costs assessed on the indemnity basis under CPR rule 44.3.

PART 3

Criminal legal aid for legal persons

Financial eligibility: criminal legal aid

33. This Part of the Regulations applies for the purposes of determining whether a legal person qualifies for criminal legal aid under paragraph 4(1)(c) or 5(2)(b) of Schedule 3 to the Act.

Financial eligibility: application for a determination

34.—(1) Subject to paragraph (2), the Director must treat a legal person as having financial resources which are such that the legal person is not eligible for criminal legal aid.

(2) The Director must not determine that the legal person's financial resources are such that the legal person is eligible for criminal legal aid unless—

- (a) the Director is satisfied that the legal person is not able reasonably to obtain from any source sufficient means to fund the services in relation to which an application for criminal legal aid has been made; and
- (b) the legal person has provided to the Director a document which sets out the likely costs of the services in relation to which an application for criminal legal aid has been made, in accordance with paragraph (3).

(3) If the advice and assistance or representation will be provided on more than one occasion the document provided under sub-paragraph (2)(b) must itemise the cost of the advice and assistance or representation to be provided at each stage of the case.

Determinations

35.—(1) When the requirements of regulation 34(2) are met the Director must make a determination in accordance with section 21 of the Act ^{M13} that a legal person's financial resources are such that the legal person is eligible for legal aid under paragraph 4 or 5 of Schedule 3 to the Act.

(2) A determination made under section 21—

- (a) must specify any limitations and conditions to which the determination is subject; and
- (b) may specify the duration of the determination by reference to the stages of the case set out in a document provided under regulation 34(2)(b).

(3) In circumstances in which the determination includes a time limit in accordance with sub-paragraph (2)(b), this does not prevent a legal person making a further application for a determination in accordance with regulation 36 in relation to any subsequent stage of the case.

(4) Where the Director receives a notification in accordance with regulation 6, the Director must determine whether the legal person's financial resources are such that the legal person remains eligible for criminal legal aid in accordance with regulation 34.

Marginal Citations

M13 Paragraph 6 of Schedule 3 to the Act (legal aid for legal persons: financial resources) applies section 21 for the purposes of paragraph 5(2)(b) or regulations made under paragraph 4 of that Schedule as if references to an individual include a legal person.

Further application

36. Where the Director has determined that a legal person's financial resources are such that the legal person is not eligible for criminal legal aid, that legal person may make a further application if, and only if—

- (a) there is a change in the legal person's financial circumstances which might affect whether that legal person qualifies for criminal legal aid;
- (b) the application is one to which regulation 35(3) applies; or
- (c) a determination that the legal person does not qualify for criminal legal aid has been withdrawn in accordance with regulation 37.

Withdrawal

37.—(1) The Director must withdraw a determination under paragraph 4(2)(c) or 5(2)(b) of Schedule 3 to the Act if the Director is satisfied that the legal person is able reasonably to obtain from any source sufficient means to fund the services in relation to which an application for criminal legal aid has been made.

(2) The Director must withdraw a determination under paragraph 4(2)(c) or 5(2)(b) of Schedule 3 to the Act if a legal person fails to comply with any request for information made in accordance with these Regulations, unless the Director is satisfied that there are good reasons not to do so.

(3) Where the Director withdraws a determination, the Director must provide written notification of the withdrawal to the legal person in whose favour the original determination was made.

Signed by authority of the Lord Chancellor

Ministry of Justice

McNally
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 21(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) (“the Act”), as applied by paragraph 6 of Schedule 3 to the Act, provides that the Director may not make a determination that a legal person qualifies for legal aid under Part 1 of the Act unless the Director has determined that the legal person's financial resources are such that they are eligible for services provided under Part 1.

The Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 (S.I. 2013/480) and the Criminal Legal Aid (Financial Resources) Regulations 2013 (S.I. 2013/471) make provision in relation to the financial eligibility of individuals for civil and criminal legal aid, respectively, under Part 1 of the Act. These Regulations make provision for determining the financial eligibility of legal persons for civil and criminal legal aid.

Changes to legislation:

There are currently no known outstanding effects for the The Legal Aid (Financial Resources and Payment for Services) (Legal Persons) Regulations 2013.