
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Civil Legal Aid (Procedure) Regulations 2012 (S.I. 2012/3098) (“the Procedure Regulations”). The Procedure Regulations make provision about the making and withdrawal of determinations that an individual qualifies for civil legal services under sections 9 and 10 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“the Act”). These Regulations amend the evidence requirements relating to victims of, or persons at risk of, domestic violence, and persons with a child who has experienced, or is at risk of, child abuse, who seek civil legal services under the Act.

Regulation 2 amends regulation 33 of the Procedure Regulations to add to the list of acceptable evidence of domestic violence, or of a risk of domestic violence. The additional evidence relates to: police bail for a domestic violence offence; refusal of entry to a refuge on account of the refuge having insufficient accommodation; referral by a health professional to a specialist support service; domestic violence protection notices; domestic violence protection orders; and binding over orders for a domestic violence offence. Regulation 2 also amends the existing evidence requirements relating to multi-agency risk assessment conferences, medical evidence and admission to a refuge.

Regulation 3 amends regulation 34 of the Procedure Regulations to add to the list of acceptable evidence of a risk of child abuse. The additional evidence relates to police bail for a child abuse offence.

Regulation 4 amends regulation 42 of the Procedure Regulations. Under new regulation 42(1)(k)(ia) the Director of Legal Aid Casework will be able to withdraw a determination that civil legal services are available to an individual if the evidence relied on for the purposes of regulation 33 related to a person being on police bail and that person is not ultimately charged with a domestic violence offence. Under new regulation 42(1)(k)(ib) the Director of Legal Aid Casework has similar powers to withdraw a determination for civil legal services in respect of regulation 34, where a person is on police bail for a child abuse offence but is not ultimately charged. Under new regulation 42(1)(k)(ic) the Director will be able to withdraw a determination that civil legal services are available to an individual if the evidence relied on for the purposes of regulation 33 was a domestic violence protection notice, which formed the basis for an unsuccessful application for a domestic violence protection order.

Part 2 of these Regulations provides that the amendments made in Part 1 do not apply to pre-commencement applications for civil legal services (within the meaning given by regulation 6).

An impact assessment has not been prepared for this instrument as it has no impact on business and civil society organisations. It has a negligible impact on the public sector.