
STATUTORY INSTRUMENTS

2013 No. 104

The Civil Legal Aid (Merits Criteria) Regulations 2013

PART 1

INTERPRETATION AND GENERAL

Qualifying for civil legal services

11.—(1) These Regulations apply for the purposes of determining whether an individual or a legal person qualifies for civil legal services under Part 1 of the Act in accordance with section 11(1)(b)(1).

(2) In determining whether an individual qualifies for civil legal services under Part 1 of the Act, the Director must apply the general merits criteria, except to the extent that they are disapplied, modified or supplemented by the specific merits criteria.

(3) The Director must apply the merits criteria which are appropriate in each case in accordance with Part 5 (application of the merits criteria), to the extent that it is relevant.

(4) Subject to paragraph (9), an individual or legal person may qualify for civil legal services in accordance with Part 1 of the Act only if the Director is satisfied that—

- (a) the general merits criteria and, to the extent that they are relevant, the specific merits criteria are met;
- (b) the criterion in paragraph (6) is met; and
- (c) the criterion in paragraph (8) is met, to the extent that it is relevant.

(5) When determining whether an individual qualifies for civil legal services under Part 1 of the Act, the Director must apply the merits criteria which are relevant to the forms of civil legal services set out in Part 2 (form of civil legal services) and must consider which form of civil legal services is appropriate in accordance with Part 3 (availability of forms of civil legal services).

(6) An individual or legal person may qualify for civil legal services only if the Director is satisfied that it would be reasonable to provide those services in the light of the conduct of that individual or legal person in connection with—

- (a) any civil legal services made available under Part 1 of the Act;
- (b) any application for civil legal services under Part 1 of the Act; or
- (c) any civil proceedings for resolving disputes about legal rights or duties.

(7) If the Director is satisfied that—

- (a) the case is not a case which relates to the life or liberty of the individual or their family (an individual is a member of another individual's family if the requirements of section 10(6) are met);
- (b) the case is not a public law children case; and

(1) Paragraph 3(2) of Schedule 3 to the Act (legal aid for legal persons) provides that section 11 applies in relation to a determination under paragraph 3(1)(b) of Schedule 3 to the Act. A determination under paragraph 3(1)(b) is a determination that a legal person qualifies for civil legal services in accordance with Part 1 of the Act.

- (c) the likely costs of the case exceed £250,000 or, if the case forms part of a multi-party action, the likely costs of the multi-party action exceed £1,000,000,

the criterion in paragraph (8) applies.

(8) An individual or legal person may qualify for civil legal services only if the Director is satisfied that, having had regard to the present and likely future demands for the provision of civil legal services under Part 1 of the Act, it is reasonable to provide the individual or legal person with civil legal services in all the circumstances of the case including, but not limited to, the particular circumstances of the individual or legal person.

(9) No merits criteria apply to civil legal services provided—

- (a) in relation to an assessment by a mediator of whether, in the light of all the circumstances, a case is suitable for mediation;
- (b) in relation to any matter described in paragraph 18(2) of Part 1 of Schedule 1 to the Act (EU and international agreements concerning maintenance), to the extent that it—
- (i) relates to any application under Article 56(1)(a) or (b) of the EU Maintenance Regulation⁽²⁾; and
 - (ii) concerns maintenance obligations arising from a parent-child relationship towards a person under the age of 21;
- (c) in relation to any matter described in paragraph 17(1)(b) of Part 1 of Schedule 1 to the Act (an application made to the Lord Chancellor under the 1980 Hague Convention⁽³⁾ in respect of a child who is, or is believed to be, in England and Wales), to the extent that it relates to an applicant under the 1980 Hague Convention; or
- (d) in relation to any matter described in paragraph 18(3A) of Part 1 of Schedule 1 to the Act (application made under Article 10 of the 2007 Hague Convention) to the extent that it—
- (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.

(2) 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.

(3) 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.