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STATUTORY INSTRUMENTS

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**2013 No. 104**

**The Civil Legal Aid (Merits Criteria) Regulations 2013**

**PART 6**

**SPECIFIC MERITS CRITERIA**

**CHAPTER 6**

**Family**

**Criteria for determinations for full representation in relation to other family cases to which specific merits criteria apply**

- 69.**—(1) For the purposes of a relevant determination the criteria in—
- (a) regulations 39(a) to (e) (criteria for determinations for legal representation) apply;
  - (b) regulations 39(f), 41, 42 (cost benefit criteria), 43 (prospects of success criterion) and 44 (multi-party) do not apply; and
  - (c) paragraphs (2) and (3) apply.
- (2) The Director must be satisfied that—
- (a) the reasonable private paying individual test is met; and
  - (b) the criterion in paragraph (3) is met.
- [<sup>F1</sup>(3) The Director must be satisfied that the prospects of success are—
- (a) very good, good or moderate; or
  - (b) borderline, marginal or unclear, and—
    - (i) the case is of significant wider public interest;
    - (ii) the case is one with overwhelming importance to the individual; or
    - (iii) the substance of the case relates to a breach of Convention rights.]
- (4) In this regulation, a relevant determination is—
- (a) a determination for full representation in relation to any matter described in paragraph 12 of Part 1 of Schedule 1 to the Act (victims of domestic violence and family matters) to the extent that it does not relate—
    - (i) to Part 1 or 3 of the Family Law Act 1986 <sup>M1</sup> (child custody and declarations of status);
    - (ii) subject to sub-paragraph (b), to any provision of Part 1 or 2 of the Children Act 1989 <sup>M2</sup> (orders with respect to children in family proceedings); [<sup>F2</sup>or
    - (iii) to section 51A of the Adoption and Children Act 2002 (post-adoption contact orders);]
  - (b) a determination for full representation in relation to any matter described in paragraph 12 of Part 1 of Schedule 1 to the Act (victims of domestic violence and family matters) to the

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**Changes to legislation:** The Civil Legal Aid (Merits Criteria) Regulations 2013, Section 69 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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extent that it relates an order made under section 15 of, and Schedule 1 to, the Children Act 1989;

- [<sup>F3</sup>(ba) a determination for full representation in relation to any matter described in paragraph 15 of Part 1 of Schedule 1 to the Act (children who are parties to family proceedings), to the extent that regulations 64 and 68 do not apply;]
- (c) a determination for full representation in relation to any matter described in paragraph 18(2) of Part 1 of Schedule 1 to the Act (applications in relation to maintenance decisions), to the extent that regulations 11(9)(b) or 70 do not apply; or
- (d) any matter described in paragraph 18(3A) of Part 1 of Schedule 1 to the Act (applications under Article 10 of the 2007 Hague Convention), to the extent that article 17(a)<sup>M3</sup> of the 2007 Hague Convention applies.

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#### Textual Amendments

- F1** Reg. 69(3) substituted (22.7.2016) by [The Civil Legal Aid \(Merits Criteria\) \(Amendment\) Regulations 2016 \(S.I. 2016/781\)](#), regs. 1(1), **2(12)** (with reg. 3)
- F2** Reg. 69(4)(a)(iii) and word inserted (10.12.2015) by [The Civil Legal Aid \(Merits Criteria and Information about Financial Resources\) \(Amendment\) Regulations 2015 \(S.I. 2015/2005\)](#), regs. 1(2), **2(3)**
- F3** Reg. 69(4)(ba) inserted (27.1.2014) by [The Civil Legal Aid \(Merits Criteria\) \(Amendment\) Regulations 2014 \(S.I. 2014/131\)](#), regs. 1(1), **2(11)** (with reg. 3)
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#### Marginal Citations

- M1** 1986 c.55.
- M2** 1989 c.41.
- M3** Article 17(a) provides that in the case of all applications under the 2007 Hague Convention other than those under article 15 or 16 the provision of free legal assistance may be made subject to a merits test.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 11(9)(e) and word inserted by [2022 c. 36 s. 25\(3\)](#)
- reg. 11(9)(f) and word inserted by [2023 c. 37 s. 56\(5\)\(b\)](#)