
STATUTORY INSTRUMENTS

2013 No. 483

The Criminal Legal Aid (Contribution Orders) Regulations 2013

PART 2

Crown Court Trials

Calculation of gross annual income

- 10.**—(1) The Director must—
- (a) calculate an individual's gross annual income; and
 - (b) where the individual has a partner or a child living in the individual's household, adjust the individual's gross annual income in accordance with the Schedule to these Regulations.
- (2) An individual's gross annual income is the individual's total income during the period of calculation from all sources other than receipt of the following amounts—
- (a) any financial support paid under an agreement for the care of a foster child;
 - (b) any payments paid out of—
 - (i) the Independent Living Fund(1);
 - (ii) the Independent Living (Extension) Fund(2);
 - (iii) the Independent Living (1993) Fund(3); or
 - (iv) the Independent Living Fund (2006)(4);
 - (c) any exceptionally severe disablement allowance paid under the Personal Injuries (Civilians) Scheme 1983(5);
 - (d) any of the following payments—
 - (i) attendance allowance paid under section 64 of the Social Security Contributions and Benefits Act 1992 or section 64 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

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- (1) The Independent Living Fund is a discretionary trust established by deed and funded by grants made by the Secretary of State, whose trustees have power to make payments to assist certain severely disabled people to live independently.
- (2) The Independent Living (Extension) Fund is a Trust established by deed dated 25th February 1993 and made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part.
- (3) The Independent Living (1993) Fund is a Trust established by deed dated 25th February 1993 and made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part.
- (4) The Independent Living Fund (2006) is a Trust established by deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part.
- (5) *S.I. 1983/686*. Article 15 of the Scheme, under which exceptionally severe disablement allowance is payable, was amended by paragraph 4 of Schedule 1 to the Personal Injuries (Civilians) Amendment Scheme 2001 (*S.I. 2001/420*). Paragraph 4 of Schedule 3 to the Scheme, which sets out the rate at which exceptionally severe disablement allowance is payable was substituted by paragraph 1 of Schedule 1 to the Personal Injuries (Civilians) Scheme (Amendment) Order 2010 (*S.I. 2010/283*).

- (ii) severe disablement allowance paid under section 68 of the Social Security Contributions and Benefits Act 1992(6) or section 68 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(7);
- (iii) carer's allowance paid under section 70 of the Social Security Contributions and Benefits Act 1992(8) or section 70 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(9);
- (iv) disability living allowance paid under section 71 of the Social Security Contributions and Benefits Act 1992(10) or section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (v) constant attendance allowance paid under section 104 of the Social Security Contributions and Benefits Act 1992 as an increase to a disablement pension or section 104 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (vi) any housing benefit paid under section 130 of the Social Security Contributions and Benefits Act 1992(11) or section 129 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (vii) council tax benefit paid under section 131 of the Social Security Contributions and Benefits Act 1992(12);
- (viii) payment made out of the social fund under the Social Security Contributions and Benefits Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- [^{F1}(ix) payments made by or under the Welsh Independent Living Grant;
- (x) payments made under Part 2 or 3 of the Social Security (Payments on Account of Benefit) Regulations 2013 or Part 2 or 3 of the Social Security (Payments on Account of Benefit) Regulations (Northern Ireland) 2016;
- (xi) payments made under regulation 17 of the Universal Credit (Transitional Provisions) Regulations 2014 or regulation 17 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016;]
- (e) any direct payments made under [^{F2}sections 31 to 33 of the Care Act 2014 (direct payments) or under] regulations made under [^{F3}section 49(3) of the Children and Families Act 2014 (personal budgets and direct payments),] section 57(1) of the Health and Social Care Act 2001(13) (direct payments), section 17A of the Children Act 1989(14) (direct

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- (6) Section 68 was repealed by section 65 of, and Part 4 of Schedule 13 to, the Welfare Reform and Pensions Act 1999, but is subject to the savings provision specified in article 4 of the Welfare Reform and Pensions Act 1999 (Commencement No. 9, and Transitional and Savings Provisions) Order 2000 (S.I. 2000/2958).
 - (7) Section 68 was repealed by article 62 of, and paragraph 25 of Schedule 8 and Part 4 of Schedule 10 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999, but is subject to the savings provision specified in article 4 of the Welfare Reform and Pensions (1999 Order) (Commencement No. 6 and Transitional and Savings Provisions) Order (Northern Ireland) 2000 (S.I. 2000/332 (C. 14)).
 - (8) Section 70 was amended to provide for carer's allowance by articles 2 and 3 of, and paragraphs 1 and 2 of the Schedule to, the Regulatory Reform (Carer's Allowance) Order 2002 (S.I. 2002/1457).
 - (9) Section 70 was amended to provide for carer's allowance by article 3 of the Deregulation (Carer's Allowance) Order (Northern Ireland) 2002 S.R. (NI) 2002 No 321.
 - (10) Section 71 is to be repealed by section 90 of the Welfare Reform Act 2012 at a date to be appointed.
 - (11) 1992 c. 4. Section 130 is to be repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 at a date to be appointed.
 - (12) Section 131 is to be repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 at a date to be appointed.
 - (13) 2001 c. 15. Section 57 was amended by section 146(1) to (7) of the Health and Social Care Act 2008 (c. 14) and in relation to Wales, by section 16 of the Social Care Charges (Wales) Measure 2010.
 - (14) 1989 c. 41. Section 17A was substituted by section 58 of the Health and Social Care Act 2001 (c. 15); amended by section 39 of, and paragraph 1 and 3 of Schedule 3 to, the Children and Young Persons Act 2008 (c. 23); section 160 of, and paragraph 1 of Schedule 14 to, the Health and Social Care Act 2008 (c. 14); section 60 of, and Schedule 6 to, the Tax Credits Act 2002 (c. 21); section 47 of, and paragraphs 15 and 17 of Schedule 3 to, the Tax Credits Act 2002; and section 28(1) of, and paragraph 6(1) and (3) of Schedule 3 to, the Welfare Reform Act 2007 (c. 5).

- payments) [^{F4}, section 8(1)] of the Carers and Direct Payments Act (Northern Ireland) 2002(15)[^{F5} or sections 50 to 53 of the Social Services and Well-being (Wales) Act 2014];
- (f) any reasonable living expenses provided for as an exception to [^{F6}a POCA restraint order];
 - (g) any pensions paid under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(16);
 - (h) any armed forces independence payment paid under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(17); and
 - (i) any personal independence payment paid under Part 4 of the Welfare Reform Act 2012 [^{F7} or Part 5 of the 2015 (Northern Ireland) Order].
- [^{F8}(j) any payment made under the Windrush Compensation Scheme; ^{F9} ...
- (k) any Windrush connected payment][^{F10};
 - (l) a payment made under the Social Security (Additional Payments) Act 2022;
 - (m) a payment made to an individual under section 13 or 15 of the Energy Prices Act 2022].
- (3) Where the Director calculates that the individual's gross annual income, adjusted under paragraph (1)(b) where relevant, exceeds £12,475, the Director must calculate the individual's disposable annual income in accordance with regulation 11.
- (4) Where the Director calculates that the individual's gross annual income, adjusted under paragraph (1)(b) where relevant, is £12,475 or less—
- (a) the individual is not liable to make a payment out of income; and
 - (b) the Director must notify the individual that the individual is not liable to make a payment out of income but may be liable to make a payment out of capital.
- (5) In this regulation and regulation 11 “child” means an individual who is under the age of 18 on the date on which the application for a determination under section 16 of the Act is made.

Textual Amendments

- F1** Reg. 10(2)(d)(ix)-(xi) inserted (28.7.2016) by The Civil and Criminal Legal Aid (Financial Eligibility and Contributions) (Amendment) Regulations 2016 (S.I. 2016/708), regs. 1, **8(4)(a)**
- F2** Words in reg. 10(2)(e) inserted (1.4.2015) by The Care Act 2014 (Consequential Amendments) (Secondary Legislation) Order 2015 (S.I. 2015/643), art. 1(2), **Sch. para. 45** (with art. 4)
- F3** Words in reg. 10(2)(e) inserted (13.4.2015) by The Legal Aid, Community Legal Service and Criminal Defence Service (Amendment) Regulations 2015 (S.I. 2015/838), regs. 1(2), **10**
- F4** Words in reg. 10(2)(e) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) (Secondary Legislation) Regulations 2016 (S.I. 2016/211), reg. 1(2), **Sch. 3 para. 157(a)**
- F5** Words in reg. 10(2)(e) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) (Secondary Legislation) Regulations 2016 (S.I. 2016/211), reg. 1(2), **Sch. 3 para. 157(b)**
- F6** Words in reg. 10(2)(f) substituted (1.6.2015) by The Criminal Legal Aid (Contribution Orders) (Amendment) Regulations 2015 (S.I. 2015/710), regs. 1, **2(3)** (with reg. 3)
- F7** Words in reg. 10(2)(i) inserted (28.7.2016) by The Civil and Criminal Legal Aid (Financial Eligibility and Contributions) (Amendment) Regulations 2016 (S.I. 2016/708), regs. 1, **8(4)(b)**
- F8** Reg. 10(2)(j)(k) inserted (1.5.2019) by The Legal Aid (Financial Resources and Contribution Orders) (Amendment) Regulations 2019 (S.I. 2019/894), regs. 1, **4(3)**

(15) 2002 c. 6.

(16) S.I. 2006/606, to which there are amendments not relevant to these Regulations.

(17) S.I. 2011/517, amended by S.I. 2013/436 to make provision in relation to armed forces independence payments.

Changes to legislation: There are currently no known outstanding effects for the The Criminal Legal Aid (Contribution Orders) Regulations 2013, Section 10. (See end of Document for details)

- F9** Word in reg. 10(2)(j) omitted (10.1.2023) by virtue of The Legal Aid (Financial Resources and Contribution Orders) (Amendment) Regulations 2022 (S.I. 2022/1376), regs. 1(1), **4(2)(a)**
- F10** Reg. 10(2)(l)(m) inserted (10.1.2023) by The Legal Aid (Financial Resources and Contribution Orders) (Amendment) Regulations 2022 (S.I. 2022/1376), regs. 1(1), **4(2)(b)**
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Commencement Information

- I1** Reg. 10 in force at 1.4.2013, see **reg. 1**

Changes to legislation:

There are currently no known outstanding effects for the The Criminal Legal Aid (Contribution Orders) Regulations 2013, Section 10.