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STATUTORY INSTRUMENTS

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**2013 No. 483**

**The Criminal Legal Aid (Contribution Orders) Regulations 2013**

**PART 2**

**Crown Court Trials**

**Calculation of disposable specified capital**

- 28.**—(1) The Director must calculate an individual's disposable specified capital by—
- (a) calculating the amount or value of an individual's specified capital on the date on which the application for a determination under section 16 of the Act is made; and
  - (b) except where paragraph (2) applies, deducting £30,000 from the total amount or value.
- (2) Where—
- (a) an individual fails, without reasonable excuse, to comply with a request for documentary evidence in relation to specified capital under regulation 7(3); and
  - (b) the Director has reasonable grounds to believe that the individual has specified capital of an amount or value equal to, or in excess of, £30,000,

the Director must not make the deduction in paragraph (1)(b).

(3) [<sup>F1</sup>Subject to paragraph (3B),] the amount or value of an individual's specified capital is the amount or value of all specified capital belonging to the individual on the date on which the application for a determination under section 16 of the Act is made, except where—

- (a) it would be impractical or unreasonable for the Director to include the specified capital; or
- (b) [<sup>F2</sup>subject to paragraph (3A),] the individual is restrained by order of the High Court or Crown Court from dealing with the specified capital.

[<sup>F3</sup>(3A) Paragraph (3)(b) does not apply where the order is a POCA restraint order.]

[<sup>F4</sup>(3B) In calculating the amount of an individual's disposable specified capital, the Director must disregard—

- (a) any payment made under the Windrush Compensation Scheme; <sup>F5</sup>...
  - (b) any Windrush connected payment][<sup>F6</sup>;
  - (c) a payment made under the Social Security (Additional Payments) Act 2022;
  - (d) a payment made to an individual under section 13 or 15 of the Energy Prices Act 2022].
- (4) In calculating the amount or value of an individual's specified capital—
- (a) in so far as the specified capital does not consist of money, its value is—
    - (i) the amount which that resource would realise if sold; or
    - (ii) the value of that resource assessed in such other manner as appears to the Director to be equitable;

- (b) the value of any interest in real property is the amount for which that interest could be sold less the amount of any debt secured by a mortgage or charge on the property; and
- (c) where an individual owns an interest in specified capital jointly or in common with any other person (other than the individual's partner), the Director must treat that resource as being owned in equal shares or, where there is evidence that the resource is not so owned, in such proportion as appears to the Director to be equitable in the light of that evidence.

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#### Textual Amendments

- F1** Words in [reg. 28\(3\)](#) inserted (1.5.2019) by [The Legal Aid \(Financial Resources and Contribution Orders\) \(Amendment\) Regulations 2019 \(S.I. 2019/894\)](#), regs. 1, **4(4)(a)**
- F2** Words in [reg. 28\(3\)\(b\)](#) inserted (1.6.2015) by [The Criminal Legal Aid \(Contribution Orders\) \(Amendment\) Regulations 2015 \(S.I. 2015/710\)](#), regs. 1, **2(4)(a)** (with [reg. 3](#))
- F3** [Reg. 28\(3A\)](#) inserted (1.6.2015) by [The Criminal Legal Aid \(Contribution Orders\) \(Amendment\) Regulations 2015 \(S.I. 2015/710\)](#), regs. 1, **2(4)(b)** (with [reg. 3](#))
- F4** [Reg. 28\(3B\)](#) inserted (1.5.2019) by [The Legal Aid \(Financial Resources and Contribution Orders\) \(Amendment\) Regulations 2019 \(S.I. 2019/894\)](#), regs. 1, **4(4)(b)**
- F5** Word in [reg. 28\(3B\)\(a\)](#) 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(3)(a)**
- F6** [Reg. 28\(3B\)\(c\)\(d\)](#) inserted (10.1.2023) by [The Legal Aid \(Financial Resources and Contribution Orders\) \(Amendment\) Regulations 2022 \(S.I. 2022/1376\)](#), regs. 1(1), **4(3)(b)**

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#### Commencement Information

- I1** [Reg. 28](#) 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 28.