
STATUTORY INSTRUMENTS

2013 No. 614

**The Criminal Legal Aid (Determinations by a Court
and Choice of Representative) Regulations 2013**

PART 3

Choice of representative

Criminal proceedings other than before a magistrates' court

18.—(1) Subject to paragraphs (2) to (6), in relation to any criminal proceedings that are not before a magistrates' court, the right of an individual conferred by section 27(4) of the Act does not include a right to select a Queen's Counsel or more than one advocate.

(2) The relevant court may determine that an individual can select a Queen's Counsel if that individual's case involves substantial novel or complex issues of law or fact which could not be adequately presented except by a Queen's Counsel, and either—

- (a) the exceptional condition is met; or
- (b) the counsel condition is met.

(3) The relevant court may determine that an individual can select two junior advocates if that individual's case involves substantial novel or complex issues of law or fact which could not be adequately presented by a single advocate, including a Queen's Counsel alone, and either—

- (a) the exceptional condition is met; or
- (b) the prosecution condition is met.

(4) The relevant court may determine that an individual can select a Queen's Counsel and a junior advocate if that individual's case involves substantial novel or complex issues of law or fact which could not be adequately presented except by a Queen's Counsel assisted by a junior advocate and either—

- (a) the exceptional condition is met; or
- (b) the counsel condition and the prosecution condition are met.

(5) The relevant court may determine that an individual can select three advocates if the proceedings relate to a prosecution brought by the Serious Fraud Office and the relevant court determines that three advocates are required to represent the individual.

(6) If the proceedings described in paragraph (5) are in the Crown Court, that court must also determine that the individual's case involves substantial novel or complex issues of law or fact which could not be adequately presented by two junior advocates, or by a Queen's Counsel assisted by a junior advocate, and either—

- (a) the exceptional condition is met; or
- (b) the prosecution condition is met.

(7) In this regulation—

“the counsel condition” means, in relation to particular criminal proceedings, that a Queen's Counsel or senior Treasury Counsel has been instructed on behalf of the prosecution;

“the exceptional condition” means, in relation to particular criminal proceedings, that the individual's case is exceptional compared with the generality of cases involving similar offences;

“the prosecution condition” means, in relation to particular criminal proceedings, any of the following circumstances—

- (a) two or more advocates have been instructed on behalf of the prosecution [^{F1}and the relevant court is satisfied that the individual will be, or will be likely to be, prejudiced if they too are not represented by two or more advocates];
- (b) the number of prosecution witnesses exceeds 80;
- (c) the number of pages of prosecution evidence exceeds 1000; and

“prosecution evidence” means all witness statements, documentary and pictorial exhibits and records of interview with the individual and with any other defendants which form part of the ^{F2}... served prosecution documents or are included in any notice of additional evidence.

Textual Amendments

- F1** Words in reg. 18(7) inserted (2.12.2013) by [The Criminal Legal Aid \(Determinations by a Court and Choice of Representative\) \(Amendment\) Regulations 2013 \(S.I. 2013/2814\)](#), regs. 1(1), **2(2)** (with reg. 1(2))
- F2** Words in reg. 18(7) omitted (5.10.2015) by virtue of [The Civil and Criminal Legal Aid \(Amendment\) \(No.2\) Regulations 2015 \(S.I. 2015/1678\)](#), regs. 1(2)(a), **8(2)** (with reg. 10(1))

Changes to legislation:

There are currently no known outstanding effects for the The Criminal Legal Aid (Determinations by a Court and Choice of Representative) Regulations 2013, Section 18.