

This Statutory Instrument corrects an error in SI 2015/1369 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2015 No. 2049

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Criminal Legal Aid (Remuneration etc.) (Amendment) (No. 2) Regulations 2015

<i>Made</i>	- - - -	<i>15th December 2015</i>
<i>Laid before Parliament</i>		<i>17th December 2015</i>
<i>Coming into force</i>	- -	<i>10th January 2016</i>

The Lord Chancellor makes these Regulations(a) in exercise of the powers conferred by sections 2(3), 13(4) and (5), 15(1), (6), (7) and (9), 21(2) and 41(1) to (3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Criminal Legal Aid (Remuneration etc.) (Amendment) (No. 2) Regulations 2015.

(2) These Regulations come into force on 10th January 2016.

(3) In these Regulations, “the Amending Regulations” means the Criminal Legal Aid (Remuneration etc.) (Amendment) Regulations 2015(c).

Amendments to the Amending Regulations: commencement and transitional provisions

2. In the following provisions of the Amending Regulations, for “11th January” substitute “1st April”—

- (a) regulation 1(2)(b) (commencement);
- (b) regulation 2(2) (transitional provisions), and
- (c) the heading of Part 3 (amendments coming into force on 11th January 2016).

Amendments to Regulations 4 to 6 of the Amending Regulations

3.—(1) In regulation 4(2) of the Amending Regulations (amendments to the Criminal Legal Aid (General) Regulations 2013)—

(a) Section 42(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) provides that in Part 1 of that Act “regulations” means regulations made by the Lord Chancellor and “prescribed” means prescribed by regulations (except in Schedule 6).
(b) 2012 c. 10.
(c) S.I. 2015/1369.

- (a) in the definition of “relevant contract” in sub-paragraph (a), after “whichever of the” insert “2010 Standard Crime Contract,”;
- (b) in sub-paragraph (b)—
 - (i) before “1.5” insert “paragraph”;
 - (ii) omit “1.1 of the Standard Terms to”, and
 - (iii) in sub-paragraph (c), before “2015 Duty Provider Crime Contract” insert ““2010 Standard Crime Contract”,”.

(2) In regulation 5(2) of the Amending Regulations (amendments to the Civil Legal Aid (Remuneration) Regulations 2013), for sub-paragraphs (a) and (b) substitute—

- “(a) in the definition of “the relevant contract”, for “or the 2015 Standard Civil Contract” substitute “, the 2015 Standard Civil Contract, the 2015 Duty Provider Crime Contract or the 2015 Own Client Crime Contract”, and
- (b) in the definition beginning “the 2010 Standard Civil Contract”, for “and “the 2015 Standard Civil Contract”” substitute “, “the 2015 Standard Civil Contract”, “the 2015 Duty Provider Crime Contract” and “the 2015 Own Client Crime Contract””.

(3) In regulation 6(3)(c) of the Amending Regulations (amendments to the Criminal Legal Aid (Remuneration) Regulations 2013)—

- (a) in the definition of “relevant contract”, after “whichever of the” insert “2010 Standard Crime Contract,”, and
- (b) at the beginning of the definition beginning “2015 Duty Provider Crime Contract”, insert ““2010 Standard Crime Contract”,”.

Substitution of Regulation 7 of the Amending Regulations

4. For regulation 7 of the Amending Regulations, substitute—

“7. In regulation 5(2) (interpretation) of the Criminal Legal Aid (Financial Resources) Regulations 2013(a)—

- (a) for the definition of “2010 Standard Crime Contract” substitute—
 - ““2010 Standard Crime Contract” and “2015 Duty Provider Crime Contract” mean the contracts so named between the Lord Chancellor and a provider of advice and assistance or representation made available under sections 13, 15 or 16 of the Act;”;
- (b) for the definition of “duty solicitor” substitute—
 - ““Duty Lawyer has the meaning given in the relevant contract;”;
- (c) in the definition of “relevant advice and assistance”, in sub-paragraph (b), for the words from “by a duty solicitor” to the end of sub-paragraph (b) substitute “at court by a Duty Lawyer acting in accordance with the relevant contract;”, and
- (d) at the appropriate place insert—
 - ““relevant contract” means whichever of the 2010 Standard Crime Contract or 2015 Duty Provider Contract governs the provision of advice and assistance made available under section 15 of the Act, for which remuneration is claimed;”.

(a) S.I. 2013/471, to which there are amendments not relevant to these Regulations.

15th December 2015

Shailesh Vara
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument amends the Criminal Legal Aid (Remuneration etc.) (Amendment) Regulations 2015 (S.I. 2015/1369) (“the Amending Regulations”). That instrument amends the Criminal Legal Aid (Remuneration) Regulations 2013 (S.I. 2013/435) (“the Criminal Remuneration Regulations”), which make provision for the remuneration of advice, assistance and representation made available under sections 13, 15 and 16 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“the Act”). The Amending Regulations amend the fees payable under the Criminal Remuneration Regulations in two respects: reducing fees under existing fee schemes (Part 2 of the Amending Regulations) and introducing new fixed fee schemes (Part 3 of the Amending Regulations). Part 2 of the Amending Regulations came into force on 1st July 2015.

Part 3 of the Amending Regulations introduces new fee schemes for representation in the Crown Court under Schedule 2 to the Criminal Remuneration Regulations and certain advice and assistance and magistrates’ courts representation under Schedule 4 to those Regulations. Part 3 also makes amendments to the Criminal Remuneration Regulations, the Criminal Legal Aid (General) Regulations 2013 (S.I. 2013/9), Civil Legal Aid (Remuneration) Regulations 2013 (S.I. 2013/422) and the Criminal Legal Aid (Financial Resources) Regulations 2013 (S.I. 2013/471) consequential on the introduction of new contracts for the provision of services made available under sections 13, 15 and 16 of the Act. The remaining provisions make consequential amendments or minor clarifications. The Amending Regulations provided that Part 3 should come into force on 11th January 2016.

This instrument does four things. Regulation 2(a) and (c) amends the commencement date for Part 3 of the Amending Regulations to bring the amendments made by that Part into force on 1st April 2016. Regulation 2(b) amends the transitional provision applicable to Part 3 of the Amending Regulations so that the amendments made by that Part apply to determinations made under section 13, 15 or 16 of the Act on or after 1st April 2016. Regulation 3 amends the amendments made by the Amending Regulations consequential on the introduction of the new contracts to retain reference to the 2010 Standard Crime Contract as well. Regulation 4 substitutes the consequential amendment made to the Criminal Legal Aid (Financial Resources) Regulations 2013 by regulation 7 of the Amending Regulations to correct an error in the original amendment and retain reference to the 2010 Standard Crime Contract.

The contracts referred to in this instrument are available at <https://www.gov.uk/topic/legal-aid-for-providers/contracts>. Copies can be inspected at the Legal Aid Agency (Head Office) at 102 Petty France, London SW1H 9AJ.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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