

2015 No. 710

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Criminal Legal Aid (Contribution Orders) (Amendment)
Regulations 2015**

<i>Made</i>	- - - -	<i>11th March 2015</i>
<i>Laid before Parliament</i>		<i>19th March 2015</i>
<i>Coming into force</i>	- -	<i>1st June 2015</i>

The Lord Chancellor makes the following Regulations(a) in exercise of the powers conferred by sections 23 and 41 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(b).

Citation and commencement

1. These Regulations may be cited as the Criminal Legal Aid (Contribution Orders) (Amendment) Regulations 2015 and come into force on 1st June 2015.

Amendments to the Criminal Legal Aid (Contribution Orders) Regulations 2013

2.—(1) The Criminal Legal Aid (Contribution Orders) Regulations 2013(c) are amended as follows.

(2) In regulation 2 (interpretation), at the appropriate places insert—

““POCA” means the Proceeds of Crime Act 2002(d);”, and

““POCA restraint order” means a restraint order made under Part 2 of POCA;”.

(3) In regulation 10 (calculation of gross annual income), in paragraph (2)(f) for “a restraint order under section 41 of the Proceeds of Crime Act 2002” substitute “a POCA restraint order”.

(4) In regulation 28 (calculation of disposable specified capital)—

(a) in paragraph (3)(b), before “the individual” insert “subject to paragraph (3A);”, and

(b) after paragraph (3), insert—

“(3A) Paragraph (3)(b) does not apply where the order is a POCA restraint order.”.

(5) In regulation 32 (capital contribution order: general)—

(a) in paragraph (1)(d) at the beginning insert “unless paragraph (1A) applies;”, and

(b) after paragraph (1) insert—

“(1A) This paragraph applies where the individual is subject to a POCA restraint order.

(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. Section 42(1) of that Act provides that “prescribed” means prescribed in regulations.

(b) 2012 c. 10.

(c) S.I. 2013/483 as amended by S.I. 2013/2792.

(d) 2002 c. 29.

- (1B) Where paragraph (1A) applies, the capital contribution order must state—
- (a) the amount of the individual’s capital which is—
 - (i) subject to a POCA restraint order; and
 - (ii) not subject to a POCA restraint order (“B”),as calculated by the Director;
 - (b) where B is equal to, or exceeds, the amount payable, that the individual must pay the amount payable in full within 28 days of the date of the capital contribution order or within such other period as may be agreed by the Director and the individual;
 - (c) where B is less than the amount payable, that the individual must make a payment of the value of B within 28 days of the date of the capital contribution order or within such other period as may be agreed by the Director and the individual; and
 - (d) where paragraph (c) applies, that the individual must make a payment which is the amount payable less any sum already paid under sub-paragraph (c), within 28 days of the date on which paragraph (1C) first applies or within such other period following that date as may be agreed by the Director and the individual.
- (1C) This paragraph applies where—
- (a) a confiscation order under Part 2 of POCA has been made against the individual to whom the capital contribution order is issued;
 - (b) the POCA restraint order and the confiscation order were both made in proceedings that were entirely or partly for the same offence; and
 - (c) that confiscation order has been discharged or satisfied.”.

Transitional provision

3. The amendments made by regulation 2 apply where a restraint order made under Part 2 of the Proceeds of Crime Act 2002 is made on or after 1st June 2015.

Shailesh Vara
Parliamentary Under Secretary of State
Ministry of Justice

11th March 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Criminal Legal Aid (Contribution Orders) Regulations 2013 (S.I. 2013/483) (“the Contribution Orders Regulations”). The Contribution Orders Regulations make provision in relation to the liability of individuals who are in receipt of representation under section 16 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) to make a payment in connection with the provision of such representation, based on the financial resources of the individual. A contribution payment can be made from an individual’s income and capital.

Regulation 2 of these Regulations amends regulation 28 of the Contribution Orders Regulations to provide that the Director is required to include in the calculation of specified capital the capital which is subject to a restraint order under Part 2 of the Proceeds of Crime Act 2002 (c. 29) (“POCA”). Regulation 32 is amended so that a capital contribution order must state the amount of capital which is subject to a POCA restraint order. Where the individual in receipt of representation is subject to a confiscation order under Part 2 of POCA payment is due from their restrained assets within 28 days of date on which the confiscation order is discharged or satisfied or such further period following the discharge or satisfaction of the confiscation order as may be agreed between the Director and the individual. The overall effect of these amendments is that a capital contribution can be taken from capital subject to a restraint order under Part 2 of POCA

once the represented individual's confiscation order under Part 2 of POCA is discharged or satisfied. The amendments only affect capital contributions; the rules on income contributions from restrained assets remain the same.

Regulation 3 of these Regulations provides that these amendments only apply where a restraint order made under Part 2 of POCA is made after the commencement of these Regulations on 1st June 2015.

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

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