

EXPLANATORY MEMORANDUM TO
THE CRIMINAL LEGAL AID (STANDARD CRIME CONTRACT) (AMENDMENT)
REGULATIONS 2022

2022 No. 995

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument makes amendments to regulations made under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (“LASPO”), which are needed because of the introduction of a new contract to govern relations between the Lord Chancellor and providers of criminal legal aid services.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 Regrettably, this instrument will breach the 21-day rule for laying in Parliament and will be laid on 27th September 2022 and come into force on 1st October 2022. This is because the laying of this instrument was delayed due to the period of National Mourning following the death of Her Majesty Queen Elizabeth II. This amendment is simply a routine update to reflect the commencement of new contracts.
- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The provision of legal aid is governed by a combination of contracts between the Lord Chancellor and the providers of legal aid and secondary legislation. These contracts interrelate with LASPO and the secondary legislation made under it, by cross-referencing relevant legislation under particular sections of the contract. Similarly, the secondary legislation made under LASPO refers to particular contracts by reference to the title of each standard form of contract. This means that as new standard forms of

contracts are adopted, the legislation must be updated to make sure that it makes reference to the relevant contractual arrangements.

- 6.2 These regulations amend the Criminal Legal Aid (General) Regulations 2013 (the “General Regulations”), the Criminal Legal Aid (Remuneration) Regulations 2013 (the “Remuneration Regulations”) and the Criminal Legal Aid (Financial Resources) Regulations 2013 to refer to the new 2022 Standard Crime Contract (“the 2022 Contract”) in place of the 2017 Standard Crime Contract (“the 2017 Contract”).

7. Policy background

- 7.1 This instrument will amend regulations to refer to the 2022 SCC which begins on 1 October 2022, after the 2017 SCC terminates.
- 7.2 The regulations work together with the SCC to create the overall framework for criminal legal aid. For example, the rates for work done in the police station and the magistrates’ courts are set out in Schedule 4 to the Remuneration Regulations. However, the rules about what work can be done and claimed for are contained in the SCC. This amendment is simply a routine update to reflect the commencement of new contracts.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 None.

10. Consultation outcome

- 10.1 Given the minor technical nature of the changes this instrument makes, consultation was not required.

11. Guidance

- 11.1 Guidance is not required.

12. Impact

- 12.1 There is no significant impact on business, charities or voluntary bodies.
- 12.2 There is no impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because the changes it makes are of a minor technical nature.

13. Regulating small business

- 13.1 Legal aid is out of scope of the regulatory agenda. It is excluded by section 22(4)(c) of the Small Business Enterprise and Employment Act 2015 on the grounds that it relates to “the giving of grants or other financial assistance by or on behalf of a public authority”. The measure does not require Reducing Regulation Committee or Regulatory Policy Committee clearance.

14. Monitoring & review

- 14.1 The operation of and expenditure on the legal aid scheme is continually monitored by the Ministry of Justice and the Legal Aid Agency.

15. Contact

- 15.1 James MacMillan at the Ministry of Justice Telephone: 07542 945 596 or email: James.macmillan2@justice.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Lizzie Checkley, Deputy Director for Legal Aid Policy, at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Brandon Lewis, Lord Chancellor and Secretary of State of Justice can confirm that this Explanatory Memorandum meets the required standard.