

EXPLANATORY MEMORANDUM TO
THE CIVIL LEGAL AID (STANDARD CIVIL CONTRACT - MISCELLANEOUS
AMENDMENTS) REGULATIONS 2024

2024 No. 889

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of His Majesty.

2. Declaration

- 2.1 Heidi Alexander MP, Minister of State at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Farah Ziaulla/Clare MacDonald, Director for Legal Aid, Legal Services and Dispute Resolution, at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Nikki Daniels at the Ministry of Justice, Telephone: 07890 028 954 or email: Civil.LegalAidPolicy@justice.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 This instrument will make changes to four existing Civil Legal Aid regulations to bring them up to date in relation to references to the current legal aid contract. As such, the changes will mean that those regulations reference the new 2024 Standard Civil Contract (“the 2024 contract”), rather than the existing 2018 Standard Civil Contract which is currently in place and which will expire on 31 August 2024. The 2024 contract will take over from the 2018 contract in governing the provision of legal aid by the Legal Aid Agency (“LAA”) to all civil legal aid contract holders. As such, this legislative change is an administrative change that updates existing regulations whose purpose is to provide further detail to the contracts. It will also make administrative changes to two Civil Legal Aid regulations to include references to the 2017 and 2022 Standard Crime Contracts and the 2021 CLA (Education and Discrimination) Contract, as well as reflect the renaming of “Actions Against the Police” to “Claims Against Public Authorities” which took place in 2018. These changes will align regulations with LAA contract terms; the purpose of those regulations is to provide further detail to the contracts.

Where does the legislation extend to, and apply?

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

5. Policy Context

What is being done and why?

- 5.1 In order to deliver legal aid services, legal aid firms, known as providers, must hold a contract with the Lord Chancellor. Legally aided work in relation to civil and family categories is currently carried out by providers under the 2018 Standard Civil Contract. This contract ended on 31 August 2024. The new 2024 Standard Civil Contract came into effect on 1st September 2024.
- 5.2 The 2024 Standard Civil Contract will govern the underlying commercial relationship between the Legal Aid Agency (LAA), through which the Lord Chancellor acts to administer legal aid via the Director of Legal Aid Casework, and legal aid providers. Existing regulations set out the detailed rules and fees related to legal aid work carried out under the contracts and in accordance with the primary legislation. This statutory instrument updates those regulations, which provide the technical detail for the contract in relation to legal aid delivery.
- 5.3 Once this statutory instrument is in force, existing civil legal aid regulations will also reflect updates in terminology that are now established in Standard Civil Contract documentation, to ensure alignment between legislation and contract terms, as necessary. The instrument will also update existing regulations to reflect the commencement of the 2017 Crime Standard Contract, 2022 Crime Standard Contract and 2021 Civil Legal Advice Contract (Education and Discrimination).

What was the previous policy, how is this different?

- 5.4 The policy position remains unchanged as amendments are administrative in nature. This is a routine operational SI that is required to update existing regulations and does not change any policy.

6. Legislative and Legal Context

How has the law changed?

- 6.1 The law has been changed to recognise the 2024 Standard Civil Contract, which replaces the current 2018 Standard Civil Contract and reflect the changes to terminology that are contained within it. It has also been changed to reflect new crime and Civil Legal Aid contracts that commenced in 2017, 2022 and 2021 respectively, but not yet added to regulations. Why was this approach taken to change the law?

Why was this approach taken to change the law?

- 6.2 This is the only possible approach to make these necessary changes that are administrative in nature.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 A consultation was not undertaken as amendments are solely to update references to contract documents and terminology and are not a result of policy change.

8. Applicable Guidance

- 8.1 This instrument does not implement or require guidance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument as there are no tangible economic impacts associated with the measure. The nature of this provision is out of scope of the Better Regulation Framework. The instrument relates to maintenance of existing regulatory standards and there is no financial impact - the instrument does not allow for new fees (there are none) and does not otherwise increase costs for Providers nor the Government.

Impact on businesses, charities and voluntary bodies

- 9.2 There is no impact on business, charities or voluntary bodies because the instrument makes minor administrative amendments as a result of the 2024 Standard Civil Contract which came into force on 1st September 2024.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 There is no impact on the public sector because the instrument makes minor administrative amendments as a result of the 2024 Standard Civil Contract which came into force on 1st September 2024.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

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

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).