

Regulations made by the Lord Chancellor, laid before Parliament under section 41(9) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, for approval by resolution of each House of Parliament within 120 days beginning with the day on which the Regulations were made, subject to extension for periods of dissolution, prorogation or adjournment for more than 4 days.

STATUTORY INSTRUMENTS

2015 No. 1414

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Civil Legal Aid (Merits Criteria) (Amendment) Regulations
2015**

Made - - - - 23rd June 2015

Laid before Parliament 25th June 2015

Coming into force in accordance with regulation 1

The Lord Chancellor, in exercise of the powers conferred by sections 11(1)(b) and 41(1)(a) and (b) and (2)(b) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(a) (“the Act”), makes the following Regulations.

In making these Regulations, in accordance with section 11(2) to (5) of the Act, the Lord Chancellor—

(a) has considered the circumstances in which it is appropriate to make civil legal services available under Part 1 of the Act and, in particular, the extent to which the criteria ought to reflect the factors set out in section 11(3) of the Act;

(b) has sought to secure that, in cases in which more than one form of civil legal service could be provided for an individual, the individual qualifies under Part 1 of the Act for the form of service which in all the circumstances is most appropriate having regard to the criteria; and

(c) is satisfied that the criteria reflect the principle that, in many disputes, mediation and other forms of dispute resolution are more appropriate than legal proceedings.

In accordance with section 41(8) of the Act, the Lord Chancellor considers that it is desirable for these Regulations to come into force without delay for the reasons given in the statement laid before Parliament with these Regulations.

(a) 2012 c. 10. Section 42(1) provides that in Part 1 of that Act, “regulations” mean regulations made by the Lord Chancellor (except in Schedule 6 to that Act).

Citation and commencement

1.—(1) These Regulations may be cited as the Civil Legal Aid (Merits Criteria) (Amendment) Regulations 2015.

(2) These Regulations come into force for the purposes of regulation 2(2) on 17th July 2015 and for all other purposes on 31st July 2015.

Amendments to the Civil Legal Aid (Merits Criteria) Regulations 2013

2.—(1) The Civil Legal Aid (Merits Criteria) Regulations 2013(a) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in the definition of “domestic violence case”—

(i) in paragraph (a), omit “or”;

(ii) after paragraph (a), insert—

“(ab) paragraph 15A (female genital mutilation protection orders)(b); or”; and

(b) in the definition of “family dispute”, after paragraph (h) insert—

“(ha) paragraph 15A (female genital mutilation protection orders);”.

(3) In regulation 22 (immigration and terrorism prevention and investigation measures etc), for paragraph (b) substitute—

“(b) paragraphs 32(1) (victims of trafficking in human beings) and 32A(1) (victims of slavery, servitude or forced or compulsory labour)(c); and”.

(4) In regulation 60 (criteria for determinations for full representation in relation to immigration), in paragraphs (1) and (2), for “or 32(1) (victims of trafficking in human beings)” substitute “, 32(1) (victims of trafficking in human beings) or 32A(1) (victims of slavery, servitude or forced or compulsory labour)”.

Shailesh Vara
Parliamentary Under Secretary of State
Ministry of Justice

23rd June 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Civil Legal Aid (Merits Criteria) Regulations 2013 (S.I. 2013/104) (“the Merits Criteria Regulations”), which make provision for the criteria which the Director of Legal Aid Casework must apply when determining whether an individual or legal person qualifies for civil legal services under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“the Act”).

Schedule 1 to the Act is amended by provisions of the Serious Crime Act 2015 (c. 9) and the Modern Slavery Act 2015 (c. 30) to bring certain civil legal services within the scope of civil legal aid. As a result of those amendments, it is necessary to amend the Merits Criteria Regulations.

Regulation 2(2) of these Regulations amends the definitions set out in regulation 2 of the Merits Criteria Regulations. The effect is to provide that the merits criteria to be applied to applications for civil legal services under paragraph 15A (female genital mutilation protection orders) of Part 1 of Schedule 1 to the Act are those which apply to domestic violence cases and certain family disputes.

(a) S.I. 2013/104. There are amending instruments but none is relevant.

(b) Paragraph 15A is inserted into Part 1 of Schedule 1 to the Act by section 85(1) of, and paragraph 87 of Schedule 4 to, the Serious Crime Act 2015 (c. 9).

(c) Paragraph 32A is inserted into Part 1 of Schedule 1 to the Act by section 47 of the Modern Slavery Act 2015 (c. 30).

Regulation 2(3) and (4) of these Regulations amends regulations 22 and 60 of the Merits Criteria Regulations to provide that the merits criteria to be applied to applications for civil legal services under paragraph 32A(1) (victims of slavery, servitude or forced or compulsory labour) of Part 1 of Schedule 1 to the Act are those which apply to civil legal services under paragraph 32(1) (victims of trafficking in human beings) of the Merits Criteria Regulations.

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