
STATUTORY INSTRUMENTS

2014 No. 586

**LEGAL AID AND ADVICE,
ENGLAND AND WALES**

**The Civil Legal Aid (Remuneration)
(Amendment) (No. 2) Regulations 2014**

<i>Made</i>	- - - -	<i>12th March 2014</i>
<i>Laid before Parliament</i>		<i>14th March 2014</i>
<i>Coming into force</i>	- -	<i>22nd April 2014</i>

The Lord Chancellor makes these Regulations⁽¹⁾ in exercise of the powers conferred by sections 2(3) and 41(1) to (3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012⁽²⁾.

PART 1

GENERAL AND AMENDMENTS

Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Civil Legal Aid (Remuneration) (Amendment) (No. 2) Regulations 2014 and come into force on 22nd April 2014.

(2) In these Regulations, “the 2013 Regulations” means the Civil Legal Aid (Remuneration) Regulations 2013⁽³⁾.

Amendments to the 2013 Regulations

2. (1) The 2013 Regulations are amended as follows.

(2) In regulation 2(1) (Interpretation)—

(a) after the definition of “the Act” insert—

““1981 Act” means the Senior Courts Act 1981⁽⁴⁾;

(1) 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.

(2) 2012 c. 10.

(3) S.I. 2013/422 as amended by S.I. 2013/2877 and S.I. 2014/7.

(4) 1981 c. 54.

“1984 Act” means the Matrimonial and Family Proceedings Act 1984⁽⁵⁾;

“2003 Act” means the Courts Act 2003⁽⁶⁾;

(b) after the definition of “advocacy services” insert—

““assistant to a justices’ clerk” has the meaning given in section 27(5) of the 2003 Act;

“authorised” means authorised by the President of the Family Division, or nominated by or on behalf of the Lord Chief Justice to conduct particular business, under powers granted by rules made under section 31D of the 1984 Act⁽⁷⁾;

(c) after the definition of “Controlled Work” insert—

““costs judge” means—

- (a) the Chief Taxing Master;
- (b) a taxing master of the Senior Courts; or
- (c) a person appointed to act as deputy for the person holding office referred to in sub-paragraph (b) or to act as a temporary additional officer for any such office;”

(d) after the definition of “family proceedings” insert—

““judge of circuit judge level” means—

- (a) a circuit judge who is authorised, where applicable;
- (b) a Recorder who is authorised, where applicable; or
- (c) any other judge of the family court authorised to sit as a judge of circuit judge level in the family court;

“judge of district judge level” means—

- (a) the Senior District Judge of the Family Division;
- (b) a district judge of the Principal Registry of the Family Division;
- (c) a person appointed to act as deputy for the person holding office referred to in sub-paragraph (b) or to act as a temporary additional officer for any such office;
- (d) a district judge who is authorised, where applicable;
- (e) a deputy district judge appointed under section 102 of the 1981 Act or section 8 of the County Courts Act 1984⁽⁸⁾ who is authorised, where applicable;
- (f) an authorised District Judge (Magistrates’ Courts); or
- (g) any other judge of the family court authorised to sit as a judge of district judge level in the family court;

“judge of High Court judge level” means—

- (a) a deputy judge of the High Court;
- (b) a puisne judge of the High Court;
- (c) a person who has been a judge of the Court of Appeal or a puisne judge of the High Court who may act as a judge of the family court by virtue of section 9 of the 1981 Act;

⁽⁵⁾ 1984 c. 42.

⁽⁶⁾ 2003 c. 39.

⁽⁷⁾ Section 31D was inserted by section 17 of, and Schedule 10 to, the Crime and Courts Act 2013 (c. 22).

⁽⁸⁾ 1984 c. 28.

- (d) the Senior President of Tribunals;
- (e) the Chancellor of the High Court;
- (f) an ordinary judge of the Court of Appeal (including the vice-president, if any, of either division of that court);
- (g) the President of the Queen’s Bench Division;
- (h) the President of the Family Division;
- (i) the Master of the Rolls; or
- (j) the Lord Chief Justice;

“judge of the family court” means a judge referred to in section 31C(1) of the 1984 Act⁽⁹⁾;

“justices’ clerk” has the meaning given in section 27(1) of the 2003 Act;

“lay justice” means an authorised justice of the peace who is not a District Judge (Magistrates’ Courts);”.

(3) The amendments to Schedule 1 to the 2013 Regulations set out in the Schedule to these Regulations have effect, subject to Part 2.

(4) Schedule 3 to the 2013 Regulations (Family Advocacy Scheme: Fees and Rates) is amended as follows.

(5) Tables 1(a) (Care or supervision proceedings under section 31 of the Children Act 1989 – graduated fees), 1(b) (Other Public Law Case – graduated fees), 2(a) (Private Law Children – Graduated Fees) and 2(b) (Domestic Abuse – Graduated Fees) are amended as follows—

- (a) in the heading of each first column, for “Court” substitute “Person before whom proceedings are heard”;
- (b) for “Family Proceedings Court”, wherever it appears, substitute “Assistant to a justices’ clerk, justices’ clerk or lay justices”;
- (c) for “County Court”, wherever it appears, substitute “Judge of district judge level, judge of circuit judge level or costs judge”; and
- (d) for “High Court”, wherever it appears, substitute “Judge of High Court judge level”.

(6) Table 2(c) (Private Law Finance – Graduated Fees) is amended as follows—

- (a) in the heading of the first column, for “Court” substitute “Person before whom proceedings are heard”;
- (b) for “County Court and Family Proceedings Court”, substitute “Assistant to a justices’ clerk, justices’ clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge”; and
- (c) for “High Court” substitute “Judge of High Court judge level”.

PART 2

TRANSITIONAL PROVISIONS

Application

3. The amendments made by the following paragraphs of the Schedule to these Regulations do not apply to a pre-commencement application for civil legal services—

(9) Section 31C was inserted by section 17 of, and Schedule 10 to, the Crime and Courts Act 2013 (c. 22).

- (a) paragraph 1(3), in so far as it relates to the fees in Table 2(c);
- (b) paragraph 2(2); and
- (c) paragraph 2(4).

Pre-commencement applications for civil legal services

4. In regulation 3, a “pre-commencement application for civil legal services” means an application for civil legal services that is—

- (a) made before 22nd April 2014; or
- (b) a new application for civil legal services within the meaning of regulation 6.

5. (1) For the purpose of regulation 4(a), an application is made before 22nd April 2014 if the application is—

- (a) for Licensed Work or an exceptional case determination under section 10 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(10), other than an application for emergency representation, and the application is—
 - (i) signed and dated before 22nd April 2014 and received by the Director by 5.00pm on 29th April 2014; or
 - (ii) submitted through the Client and Cost Management System before 22nd April 2014; or
- (b) for emergency representation and the application—
 - (i) results in a determination being made by a provider before 22nd April 2014 and that determination is notified within five working days of the determination to the Director;
 - (ii) is emailed or faxed to, and received by, the Director before 22nd April 2014; or
 - (iii) is submitted through the Client and Cost Management System before 22nd April 2014.

(2) In this regulation—

- (a) “Client and Cost Management System” means the client and cost management system used by the Director in relation to applications for civil legal services;
- (b) “Controlled Work” has the meaning given in regulation 21(2) of the Procedure Regulations;
- (c) “emergency representation” means—
 - (i) legal representation (within the meaning of regulation 18 of the Merits Criteria Regulations) that is not Controlled Work; or
 - (ii) family help (higher) (within the meaning of regulation 15(3) of the Merits Criteria Regulations),

which is provided following a determination made on an urgent application;

- (d) “working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday for the purposes of paragraph 1 of Schedule 1 to the Banking and Financial Dealings Act 1971(11).

6. (1) An application is a new application for civil legal services referred to in regulation 4(b) if either paragraph (2) or (3) applies.

(10) 2012 c. 10.

(11) 1971 c. 80.

(2) This paragraph applies where an individual makes an application for civil legal services on or after 22nd April 2014 and the following conditions are met—

- (a) civil legal services have been provided to that individual as a result of a pre-commencement application for civil legal services under regulation 4(a) (“the original application”);
- (b) the further application for civil legal services relates to the same case for which civil legal services were provided as a result of the original application; and
- (c) the further application for civil legal services is—
 - (i) for a different form of civil legal services to that provided as a result of the original application; and
 - (ii) the different form of civil legal services falls within the same variety of work as the form of service for which civil legal services were provided as a result of the original application.

(3) This paragraph applies where an individual makes an application for civil legal services on or after 22nd April 2014 and the following conditions are met—

- (a) civil legal services that are Licensed Work have been provided to that individual as a result of a pre-commencement application for civil legal services under regulation 4(a) (“the original application”);
- (b) the further application for civil legal services relates to the case for which civil legal services were provided as a result of the original application; and
- (c) as a result of the further application for civil legal services, the Director has decided in accordance with regulation 37(3)(b) of the Procedure Regulations that the certificate should cover more than one set of proceedings.

(4) In this regulation “variety of work” means Licensed Work.

Interpretation of Part 2

7. In this Part—

“the Procedure Regulations” means the Civil Legal Aid (Procedure) Regulations 2012(**12**);

“the Merits Criteria Regulations” means the Civil Legal Aid (Merits Criteria) Regulations 2013(**13**);

“form of civil legal services” has the meaning given in regulation 12(3) of the Merits Criteria Regulations; and

“Licensed Work” has the meaning given in regulation 29(2) of the Procedure Regulations.

(12) S.I. 2012/3098.

(13) S.I. 2013/104, to which there are amendments not relevant to these Regulations.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Lord Chancellor

12th March 2014

Shailesh Vara
Parliamentary Under Secretary of State
Ministry of Justice

SCHEDULE

Regulation 2(3)

Amendments to Schedule 1 to the 2013 Regulations

1. (1) In paragraph 1(3), after “the High Court”, insert “other than a judge of High Court judge level acting as a judge of the family court”.

(2) Part 1 (Civil Standard and Graduated Fees) of Schedule 1 to the 2013 Regulations is amended as follows.

(3) For Table 2(c) (Legal representation – section 31 Children Act 1989 Care or Supervision proceedings only) substitute—

“Table 2(c): Legal representation – section 31 Children Act 1989 Care or Supervision proceedings only

<i>Party</i>	<i>Person before whom proceedings are heard</i>	<i>Number of clients</i>	<i>Midlands</i>	<i>North</i>	<i>London and South</i>	<i>Wales</i>
Child	Assistant to a justices’ clerk, justices’ clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge	1	£1,754	£1,438	£2,013	£1,965
Child	Assistant to a justices’ clerk, justices’ clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge	2 or more	£2,630	£2,156	£3,020	£2,948
Child	Judge of High Court judge level	1	£2,332	£1,913	£2,678	£2,613
Child	Judge of High Court judge level	2 or more	£3,498	£2,869	£4,015	£3,919
Joined Party	Assistant to a justices’ clerk, justices’ clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge		£930	£718	£1,081	£1,171
Joined Party	Judge of High Court judge level		£1,237	£956	£1,437	£1,557
Parent	Assistant to a justices’ clerk, justices’ clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge	1	£2,300	£1,911	£2,616	£2,370

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<i>Party</i>	<i>Person before whom proceedings are heard</i>	<i>Number of clients</i>	<i>Midlands</i>	<i>North</i>	<i>London and South</i>	<i>Wales</i>
Parent	Assistant to a justices' clerk, justices' clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge	2	£2,876	£2,388	£3,270	£2,962
Parent	Judge of High Court judge level	1	£3,059	£2,541	£3,479	£3,152
Parent	Judge of High Court judge level	2	£3,824	£3,177	£4,349	£3,940".

(4) For Table 3(f) (Higher Standard Fee Scheme – Children) substitute—

“Table 3(f): Higher Standard Fee Scheme – Children

<i>Region</i>	<i>Person or court before whom proceedings are heard</i>	<i>Family help (higher) Standard Fee</i>	<i>Legal representation Standard Fee</i>
London	Assistant to a justices' clerk, justices' clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge	£424	£302
London	Judge of High Court judge level or Court of Protection	£509	£362
Non-London	Assistant to a justices' clerk, justices' clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge	£353	£251
Non-London	Judge of High Court judge level or Court of Protection	£424	£302".

(5) For Table 3(g) (Higher Standard Fee Scheme – Finance) substitute—

“Table 3(g): Higher Standard Fee Scheme – Finance

<i>Region</i>	<i>Person or court before whom proceedings are heard</i>	<i>Family help (higher) Standard Fee</i>	<i>Family help (higher) Settlement Fee</i>	<i>Legal representation Standard Fee</i>
London	Assistant to a justices' clerk, justices' clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge	£471	£95	£374

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<i>Region</i>	<i>Person or court before whom proceedings are heard</i>	<i>Family help (higher) Standard Fee</i>	<i>Family help (higher) Settlement Fee</i>	<i>Legal representation Standard Fee</i>
London	Judge of High Court judge level or Court of Protection	£565	£113	£449
Non-London	Assistant to a justices' clerk, justices' clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge	£392	£78	£311
Non-London	Judge of High Court judge level or Court of Protection	£471	£95	£374 ⁷ .

(6) For Table 3(h) (Higher Standard Fee Scheme – Domestic Abuse Proceedings) substitute—

“Table 3(h): Higher Standard Fee Scheme – Domestic Abuse Proceedings

Region	Person or court before whom proceedings are heard	<i>Legal representation Standard Fee</i>
London	Assistant to a justices' clerk, justices' clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge	£608
London	Judge of High Court judge level or Court of Protection	£729
Non-London	Assistant to a justices' clerk, justices' clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge	£507
Non-London	Judge of High Court judge level or Court of Protection	£608 ⁷ .

2. (1) Part 3 (Hourly Rates – Licensed Work) of Schedule 1 to the 2013 Regulations is amended as follows.

(2) In the heading of Table 9(a) (Proceedings under Parts IV or V of the Children Act 1989, including proceedings under section 25 of that Act, Family Prescribed Rates), after “under section 25 of that Act” insert “but excluding proceedings under section 31 of that Act”.

(3) Tables 9(a) and 9(b) (Other Family Proceedings) are amended as follows—

- (a) in the heading of each second column, before “Higher Courts” insert “Judge of High Court judge level (acting as a judge of the family court) or”; and
- (b) in the heading of each third column, for “County Court and Family Proceedings Court”, substitute “Assistant to a justices' clerk, justices' clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge”.

(4) After Table 9(a) insert—

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“Table 9(aa): Legal representation – section 31 Children Act 1989 Care or Supervision proceedings only

<i>Activity</i>	<i>Judge of High Court judge level (acting as a judge of the family court) or Higher Courts</i>	<i>Assistant to a justices’ clerk, justices’ clerk, lay justice, judge of district judge level, judge of circuit judge level or costs judge</i>
Writing routine letters	£4.23 per item	£3.69 per item
Receiving routine letters	£2.12 per item	£1.85 per item
Routine telephone calls	£4.23 per item	£3.69 per item
Preparation and attendance	£63.06 per hour (London rate) £59.26 per hour (Non-London rate)	£55.24 per hour (London rate) £52.57 per hour (Non-London rate)
Attendance at court or conference with counsel	£33.42 per hour	£29.40 per hour
Travelling and waiting time	£28.96 per hour	£26.29 per hour”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Civil Legal Aid (Remuneration) Regulations 2013 (S.I. 2013/422) (“the 2013 Regulations”), which make provision about payment by the Lord Chancellor to providers of civil legal services under arrangements made for the purpose of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

Regulation 2 and the Schedule to these Regulations make amendments which are consequential on the introduction of the new single family court by the Crime and Courts Act 2013 (c. 22). The changes amend the provisions governing remuneration for matters which will be heard before the family court. Previously, remuneration varied according to the court before which proceedings were heard, such as the county court or magistrates’ court. In future, most family matters will be heard by judges sitting in the family court. The amendments align remuneration with the new structure and jurisdiction of the family court. As a result, fees vary according to the person or court before whom proceedings are heard.

In addition to incorporating amendments consequential on the establishment of the family court, paragraphs 1(3), 2(2) and 2(4) of the Schedule amend the fees payable for legal representation in care or supervision proceedings under section 31 of the Children Act 1989. Paragraph 1(3) of the Schedule amends the fixed fees in table 2(c). Paragraph 2(4) of the Schedule inserts new table 9(aa), providing the rates which will be used to calculate the threshold at which cases escape the fixed fee scheme (pursuant to the Lord Chancellor’s contract with providers) and the hourly rates which will apply

thereafter. These amendments implement a 10% reduction in fees for preparation and attendance, attendance at court or conference with counsel and travel and waiting time. Both tables 2(c) and 9(aa) also implement the amendments made in consequence of the introduction of the family court. Regulation 3 provides that the amendments made by paragraphs 1(3), 2(2) and 2(4) of the Schedule do not apply to pre-commencement applications for civil legal services. Regulations 4 to 6 define a “pre-commencement application”.

A full impact assessment of the 10% reduction in fees on the costs of business and the voluntary sector was produced with the Government’s response to consultation, *Transforming Legal Aid: Next Steps*, and is available at <https://consult.justice.gov.uk/>. A full impact assessment of the policy implemented by the amendments consequential to the introduction of the single family court has not been produced for this instrument, as no impact on the private or voluntary sectors is foreseen. However, the amendments were consulted on in *Supporting the introduction of the single Family Court – Proposed changes to Family legal aid remuneration schemes*, available at <https://consult.justice.gov.uk/>.