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STATUTORY INSTRUMENTS

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**2015 No. 838**

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

**The Legal Aid, Community Legal Service and Criminal  
Defence Service (Amendment) Regulations 2015**

*Made - - - - 23rd March 2015*

*Laid before Parliament 23rd March 2015*

*Coming into force in accordance with regulation 1*

The Lord Chancellor makes these Regulations in exercise of the powers conferred by sections 7, 10, 17A, 25(8) and 26 of, and paragraphs 3B and 8(2) of Schedule 3 to, the Access to Justice Act 1999<sup>(1)</sup> and sections 14(h), 21(2) and (3), 22(3)(f), 23(1) and (6) and 41(1) and (2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012<sup>(2)</sup>.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Legal Aid, Community Legal Service and Criminal Defence Service (Amendment) Regulations 2015.

(2) These Regulations come into force for the purposes of Regulation 7 on 24th March 2015 and for all other purposes on 13th April 2015.

**Amendment to the Community Legal Service (Financial) Regulations 2000**

2. In the Community Legal Service (Financial) Regulations 2000<sup>(3)</sup>—

(a) in regulation 19, for paragraph (b) substitute—

“(b) “(b) any direct payments made under sections 31 to 33 of the Care Act 2014<sup>(4)</sup> (direct payments) or under regulations made under section 17A of

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(1) 1999 c. 22. Sections 7, 10, 17A, 25(8) and 26, and paragraphs 3B and 8(2) to Schedule 3 were repealed by paragraph 51(a) of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012, subject to saving and transitional provisions set out in regulations 6 to 13 of S.I. 2013/534. Section 26 provides that “regulations” means regulations made by the Lord Chancellor and “prescribed” means prescribed by regulations.

(2) 2012 c. 10. Section 42(1) provides that in Part 1 of that Act “regulations” means regulations made by the Lord Chancellor and “prescribed” means prescribed by regulations (except in Schedule 6).

(3) S.I. 2000/516, amended by S.I. 2003/762, 2004/1748, 2007/906 and 2009/1887; there are other amending instruments but none is relevant.

(4) 2014 c. 23.

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the Children Act 1989<sup>(5)</sup> (direct payments), section 57(1) of the Health and Social Care Act 2001<sup>(6)</sup> (direct payments) or section 49(3) of the Children and Families Act 2014<sup>(7)</sup> (personal budgets and direct payments);”;

- (b) in regulation 33(b), after “regulations made under” insert “section 49(3) of the Children and Families Act 2014 (personal budgets and direct payments) or”.

#### **Amendment to the Criminal Defence Service (General) (No. 2) Regulations 2001**

3. In paragraph 8(1)(d) of Schedule 1 to the Criminal Defence Service (General) (No. 2) Regulations 2001<sup>(8)</sup>, after “regulations made under” insert “section 17A of the Children Act 1989 (direct payments), section 49(3) of the Children and Families Act 2014 (personal budgets and direct payments) or”.

#### **Amendment to the Criminal Defence Service (Financial Eligibility) Regulations 2006**

4. In the definition of “gross annual income” in regulation 2(1) of the Criminal Defence Service (Financial Eligibility) Regulations 2006<sup>(9)</sup>, for paragraph (b) substitute—

- “(b) “(b) any direct payments made under sections 31 to 33 of the Care Act 2014 (direct payments) or under regulations made under section 17A of the Children Act 1989 (direct payments), section 57(1) of the Health and Social Care Act 2001 (direct payments) or section 49(3) of the Children and Families Act 2014 (personal budgets and direct payments);”.

#### **Amendment to the Criminal Defence Service (Information Requests) (Prescribed Benefits) Regulations 2009**

5. In the table in regulation 2 of the Criminal Defence Service (Information Requests) (Prescribed Benefits) Regulations 2009<sup>(10)</sup>, for the entry—

“Any direct payment	The Community Care, Services for Carers and Children’s Services (Direct Payments) (Wales) Regulations 2004 <sup>(11)</sup>
“Any direct payment	Regulations under the Section 17A Children Act 1989
Any direct payment	The Care Act 2014 Sections 31 to 33
Any direct payment	Regulations under the Section 49(3)”. Children and Families Act 2014

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(5) 1989 c. 41.

(6) 2001 c. 15.

(7) 2014 c. 6.

(8) S.I. 2001/1437, amended by S.I. 2003/762 and 2004/1748; there are other amending instruments but none is relevant.

(9) S.I. 2006/2492, amended by S.I. 2009/1887; there are other amending instruments but none is relevant.

(10) S.I. 2009/212, to which there are amendments not relevant to these Regulations.

(11) S.I. 2004/1798, revoked by S.I. 2011/831.

### **Amendment to the Criminal Defence Service (Contribution Orders) Regulations 2009**

6. In the definition of “gross annual income” in regulation 2(1) of the Criminal Defence Service (Contribution Orders) Regulations 2009(12), for paragraph (b) substitute—

- “(b) “(b) any direct payments made under sections 31 to 33 of the Care Act 2014 (direct payments) or under regulations made under section 17A of the Children Act 1989 (direct payments), section 57(1) of the Health and Social Care Act 2001 (direct payments) or section 49(3) of the Children and Families Act 2014 (personal budgets and direct payments);”.

### **Amendment to the Criminal Legal Aid (General) Regulations 2013**

7. In regulation 9 of the Criminal Legal Aid (General) Regulations 2013(13), after paragraph (j) insert—

- “(ja) “(ja) proceedings in a youth court (or on appeal from such a court) in relation to the breach or potential breach of a provision of an injunction under Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014(14) where the person who is subject to the injunction is aged under 14;”.

### **Amendment to the Criminal Legal Aid (Financial Resources) Regulations 2013**

8. In regulations 11(3)(f), 20(2)(e) and 33(2)(e) of the Criminal Legal Aid (Financial Resources) Regulations 2013(15), after “regulations made under” insert “section 49(3) of the Children and Families Act 2014 (personal budgets and direct payments),”.

### **Amendment to the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013**

9. In the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013(16)—

- (a) in regulation 24(1)(g), after “regulations made under” insert “section 49(3) of the Children and Families Act 2014 (personal budgets and direct payments),”;
- (b) in regulation 40(b)(ii), after “regulations made under” insert “section 17A of the Children Act 1989 (direct payments), section 49(3) of the Children and Families Act 2014 (personal budgets and direct payments) or”.

### **Amendment to the Criminal Legal Aid (Contribution Orders) Regulations 2013**

10. In regulation 10(2)(e) of the Criminal Legal Aid (Contribution Orders) Regulations 2013(17), after “regulations made under” insert “section 49(3) of the Children and Families Act 2014 (personal budgets and direct payments),”.

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(12) S.I. 2009/3328, to which there are amendments not relevant to these Regulations.

(13) S.I. 2013/9, amended by S.I. 2013/472 and 2015/326.

(14) 2014 c. 12.

(15) S.I. 2013/471, amended by S.I. 2013/2791; there are other amending instruments but none is relevant.

(16) S.I. 2013/480, to which there are amendments not relevant to these Regulations.

(17) S.I. 2013/483, to which there are amendments not relevant to these Regulations.

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### **Amendment to the Legal Aid (Information about Financial Resources) Regulations 2013**

**11.** In paragraph 23 of the Schedule to the Legal Aid (Information about Financial Resources) Regulations 2013(**18**), after “regulations made under” insert “section 17A of the Children Act 1989, section 49(3) of the Children and Families Act 2014 (personal budgets and direct payments),”.

23rd March 2015

*Shailesh Vara*  
Parliamentary Under Secretary of State  
Ministry of Justice

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(18) [S.I. 2013/628](#), to which there are amendments not relevant to these Regulations.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Access to Justice Act 1999 (c. 22) (“AJA”) and the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“LASPO”) make provision for the determination of financial eligibility for legal aid and liability for contributions towards the cost of legal services. Regulations under the AJA and LASPO make provision for assessing an individual’s financial resources for those purposes, including seeking information about the individual’s receipt of prescribed benefits for the purposes of such determinations.

Section 49(3)(d) of the Children and Families Act 2014 (c. 6) provides for regulations to be made to allow for direct payments to be made to a child’s parent or a young person in order to secure for the child or young person the provision identified in an education, health and care plan.

Regulations 2 to 6 and 8 to 11 amend the relevant regulations made under the AJA and LASPO to allow for such direct payments to be disregarded for the purposes of determining eligibility for legal aid and liability for contributions towards the cost of legal services and included for the purposes of requesting information about prescribed benefits. Regulations 2 to 6, 9 and 11 also update the relevant regulations to reflect current provision for other direct payments in England and Wales.

Finally, Regulation 7 amends regulation 9 of the Criminal Legal Aid (General) Regulations 2013 (S.I. 2013/9) to prescribe as criminal proceedings for the purposes of section 14(h) of LASPO proceedings for breach of an injunction under Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) where the person who subject to the injunction is aged under 14.

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