
STATUTORY INSTRUMENTS

2019 No. 894

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

**The Legal Aid (Financial Resources and Contribution
Orders) (Amendment) Regulations 2019**

Made - - - - 25th April 2019

Laid before Parliament 30th April 2019

Coming into force in accordance with regulation 1

The Lord Chancellor, in exercise of the powers conferred by sections 21(2)(a), 23(1) and 41(1)(a) and (b) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012⁽¹⁾, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Legal Aid (Financial Resources and Contribution Orders) (Amendment) Regulations 2019 and come into force on the day after the day on which these Regulations are laid before Parliament.

Amendments to the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013

2.—(1) The Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013⁽²⁾ are amended as follows.

(2) In regulation 2(1) (interpretation) insert at the appropriate places—

““the Windrush Compensation Scheme” means the scheme of that name launched on 3rd April 2019 and administered by the Home Office⁽³⁾”;

““Windrush connected payment” means a payment where—

(a) an individual has made a claim under the Windrush Compensation Scheme;

(1) 2012 c.10; section 42(1) provides that in Part 1 of the Act, “regulations” means regulations made by the Lord Chancellor.

(2) S.I. 2013/480; relevant amending instruments are S.I. 2013/591, 2015/643, 2015/838, 2016/211, 2016/708 and 2017/745.

(3) www.gov.uk/windrush-compensation. Hard copies of the Scheme can be obtained from the Windrush Helpline: telephone: +44 (0)800 678 1925; email: WindrushCompensationScheme@homeoffice.gov.uk.

- (b) a request included in that claim has been referred by the Home Office to another person; and
 - (c) the payment is made to the individual by that other person as a result of that referral;”.
- (3) In regulation 24(1) (payments to be disregarded from calculation of disposable income or gross income), after sub-paragraph (q) insert—
- “(r) any payment made under the Windrush Compensation Scheme; and
 - (s) any Windrush connected payment.”.
- (4) In regulation 40(1) (certain payments to be disregarded), after sub-paragraph (c) insert—
- “(d) any payment made under the Windrush Compensation Scheme; and
 - (e) any Windrush connected payment.”.

Amendments to the Criminal Legal Aid (Financial Resources) Regulations 2013

3.—(1) The Criminal Legal Aid (Financial Resources) Regulations 2013⁽⁴⁾ are amended as follows.

- (2) In regulation 2 (interpretation) insert at the appropriate places—
- ““the Windrush Compensation Scheme” means the scheme of that name launched on 3rd April 2019 and administered by the Home Office;”;
 - ““Windrush connected payment” means a payment where—
- (a) an individual has made a claim under the Windrush Compensation Scheme;
 - (b) a request included in that claim has been referred by the Home Office to another person; and
 - (c) the payment is made to the individual by that other person as a result of that referral;”.
- (3) In regulation 11(3) (disposable income: deductions) after sub-paragraph (k) insert—
- “(l) any payment made under the Windrush Compensation Scheme; and
 - (m) any Windrush connected payment.”.
- (4) In regulation 13(1) (disposable capital: deductions) after sub-paragraph (b) insert—
- “(c) any payment made under the Windrush Compensation Scheme; and
 - (d) any Windrush connected payment.”.
- (5) In regulation 20(2) (assessment of resources: gross annual income) after sub-paragraph (i) insert—
- “(j) any payment made under the Windrush Compensation Scheme; and
 - (k) any Windrush connected payment.”.
- (6) In regulation 33(2) (assessment of resources: gross annual income) after sub-paragraph (i) insert—
- “(j) any payment made under the Windrush Compensation Scheme; and
 - (k) any Windrush connected payment.”.

Amendments to the Criminal Legal Aid (Contribution Orders) Regulations 2013

4.—(1) The Criminal Legal Aid (Contribution Orders) Regulations 2013⁽⁵⁾ are amended as follows.

(4) S.I. 2013/471; relevant amending instruments are S.I. 2013/591, 2013/2791, 2015/643, 2015/838, 2016/211 and 2016/708.

(5) S.I. 2013/483; relevant amending instruments are S.I. 2015/643, 2015/710, 2015/838, 2016/211 and 2016/708.

- (2) In regulation 2 (interpretation) insert at the appropriate places—
- ““the Windrush Compensation Scheme” means the scheme of that name launched on 3rd April 2019 and administered by the Home Office;”;
- ““Windrush connected payment” means a payment where—
- (a) an individual has made a claim under the Windrush Compensation Scheme;
 - (b) a request included in that claim has been referred by the Home Office to another person; and
 - (c) the payment is made to the individual by that other person as a result of that referral;”.
- (3) In regulation 10(2) (calculation of gross annual income) after sub-paragraph (i) insert—
- “(j) any payment made under the Windrush Compensation Scheme; and
 - (k) any Windrush connected payment.”.
- (4) In regulation 28 (calculation of disposable specified capital)—
- (a) in paragraph (3), insert at the beginning “Subject to paragraph (3B),”;
 - (b) after paragraph (3A), insert—
 - “(3B) In calculating the amount of an individual’s disposable specified capital, the Director must disregard—
 - (a) any payment made under the Windrush Compensation Scheme; and
 - (b) any Windrush connected payment.”.

25th April 2019

Lucy Frazer
Parliamentary Under Secretary of State
Ministry of Justice

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument amends regulations made under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) which deal with an individual's financial eligibility for criminal and civil legal aid and the liability of an individual to pay a contribution towards the cost of services received. Regulation 2 of this instrument amends the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 (S.I. 2013/480), regulation 3 amends the Criminal Legal Aid (Financial Resources) Regulations 2013 (S.I. 2013/471), and regulation 4 amends the Criminal Legal Aid (Contribution Orders) Regulations 2013 (S.I. 2013/483).

The amendments provide that in the assessment of an individual's income and capital resources, payments made under, or in connection with, the Windrush Compensation Scheme must be disregarded. This Scheme was launched on 3rd April 2019 and is administered by the Home Office; details can be seen at www.gov.uk/windrush-compensation. Hard copies of the Scheme can be obtained from the Windrush Helpline: telephone: +44 (0)800 678 1925; email: WindrushCompensationScheme@homeoffice.gov.uk. The effect of the amendments is that the receipt of any payments from the Windrush Compensation Scheme will not impact on an individual's financial eligibility for legal aid, or liability to pay a contribution towards the cost of legal services.

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