EXPLANATORY MEMORANDUM TO

THE CIVIL LEGAL AID (PROCEDURE AND REMUNERATION) (AMENDMENT) REGULATIONS 2025

2025 No. 1248

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 Sarah Sackman KC, Minister of State at the Ministry of Justice, confirms that this Explanatory Memorandum meets the required standard.

2.2 Claire Cooper and Lizzie Checkley, Joint Deputy Directors for eligibility, civil and family legal aid policy at the Ministry of Justice, confirm that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Isabel Myers at the Ministry of Justice, 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 Statutory Instrument (SI) will make changes to the Civil Legal Aid (Procedure) Regulations 2012 (S.I. 2012/3098) and to Parts 1 and 2 of Schedule 1 to the Civil Legal Aid (Remuneration) Regulations 2013 (S.I. 2013/422) (the "Remuneration Regulations"). The SI will amend the Remuneration Regulations to uplift rates payable for Controlled Work in the immigration and asylum (henceforth 'immigration') and housing and debt (henceforth 'housing') categories.[1]

4.2 The Government has committed to uplifting fees for both Controlled and Licensed Work in the categories of immigration and housing as soon as operationally possible. Controlled legal aid Work is administered via a different Legal Aid Agency (LAA) digital system to Licensed Work. Following the cyber-attack, LAA systems were taken offline on 16 May 2025, the timelines for delivering policy changes on each restored or replacement system are different. We are therefore implementing uplifts for Controlled and Licensed legal aid Work separately. We will provide an update on expected timelines for the Licensed Work uplifts in due course.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

[1] Controlled work can be best categorised as legal help, help at court and Controlled Legal Representation at some immigration tribunals. Licensed work can be best categorised as predominately legal representation (other than Controlled Legal Representation).

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 Matters in scope of legal aid are set out in Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). For the purposes of its contracts, the LAA classifies these services into 11 categories of law: family, housing, immigration, mental health, community care, welfare benefits, discrimination, clinical negligence, public law, claims against public authorities and education. Civil legal services that are not included within any category of law are classified as "miscellaneous work". The fees payable for work undertaken in these categories are set out within the Remuneration Regulations.

5.2 Legal aid is in scope for the immigration category of law to the extent set out in Schedule 1, Part 1, paragraphs 24 – 32A of LASPO. This includes legal aid for cases involving the special immigration appeals commission, immigration detention, leave to enter or remain for victims of modern slavery and human trafficking and for victims of domestic abuse, rights to enter and remain based on the Refugee Convention or Article 2 or 3 of the Human Rights Convention, and citizenship and nationality. [2]

5.3 Legal aid is in scope for the housing category of law to the extent set out in Schedule 1, Part 1, paragraphs 33 – 35 of LASPO. This includes legal aid for cases such as loss of home, homelessness, and risk to health or safety in a rented home.[3]

5.4 The SI will increase the rates of pay for providers undertaking Controlled legal aid Work in the immigration and housing categories of law. Across all fees payable for housing and immigration Controlled Work, this will increase Controlled Work spend by 42% for housing and 31% for immigration. All forms of proceedings, if they are categorised as Controlled Work and carried out in the housing or immigration categories of law, will receive an increase to fees. We will also be uplifting the fee payable to the Housing Loss Prevention Advice Service (HLPAS) stage two.

5.5 This change also simplifies some of the subsidiary fees that providers can claim. Travelling and waiting fees for housing and immigration will be remunerated at 50% of the preparation and attendance rate. Smaller rates (such as telephone calls and routine letters) will be harmonised at the highest rate post-uplift, retaining current distinctions with seniority of court and geographical location.

5.6 This change in the law recognises the acute challenges with service provision and high demand facing the immigration and housing legal aid sectors and the uplift is intended to incentivise an increase in provision in these categories.

5.7 These changes will come into effect on 22 December 2025, and they will apply to work carried out under new legal help and Controlled Legal Representation legal aid applications made, i.e. completed and signed, on or after the day on which the SI comes into force.

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[2] Please see Schedule 1, Part 1, subsections 24-32A of LASPO for more information. https://www.legislation.gov.uk/ukpga/2012/10/part/1

[3] Please see Schedule 1, Part 1, subsections 33-35 of LASPO for more information. https://www.legislation.gov.uk/ukpga/2012/10/part/1

What was the previous policy, how is this different?

5.8 The current hourly rates for civil non-family legal aid work were set in 1996. Most fixed fee levels were set in 2006, using hourly rates established in 1996, with the goal of providing better value for money and rewarding innovative and efficient providers.[4] At this time, the then Government set out that its aim was to pay rates that support making high-quality provision of legal aid available to those who need it, whilst also ensuring the legal system remains financially sustainable. [5]

5.9 Between 2011 and 2012, most civil legal aid fees were reduced by 10%,[6] and LASPO reduced the scope of civil legal aid. The Review of Civil Legal Aid (RoCLA) was launched in January 2023 and concluded in March 2025. The evidence from the review indicated that the housing and immigration sectors face particularly acute challenges with service provision and high demand because of the current fee levels. Therefore, the Government took the decision to consult on uplifting the fees in these areas. Post-consultation, the Government has decided to continue with the proposals largely as set out in the consultation. This is to help ensure the sustainability of the housing and immigration legal aid markets. This change is only achievable via amendments to the Remuneration Regulations.

5.10 This change will increase immigration and housing Controlled Work rates payable for preparation and attendance to the same minimum rate of £65.35/£69.30 per hour (non-London/London), or by 10%, whichever is higher. For example, the current preparation and attendance hourly rates for Controlled Legal Representation for immigration escape fee cases are £57.83 for London and £54.09 for non-London. Post-uplift these rates will be £69.30 for London and £65.35 for non-London, constituting a 20% and 21% uplift respectively for those fees.

5.11 Fixed fees will also be uplifted by a matching proportional uplift for the underlying hourly rate for that work. For example, the housing legal help rate is currently a standard fixed fee of £157. Post-uplift, this fee will be £223, which constitutes a 42% increase.

6. Legislative and Legal Context

How has the law changed?

6.1 The instrument amends various Tables in Schedule 1 of the Remuneration Regulations by uprating the fees payable in immigration and housing legal aid.

6.2 It further amends the Civil Legal Aid (Procedure) Regulations 2012 to substitute the reference to Housing Possession Court Duty Scheme with one to the Housing Loss Prevention Advice Service.

Why was this approach taken to change the law?

6.3 Changes to the Remuneration Regulations are the only possible approach to make the proposed fee increases to legal aid providers. The amendment to the Procedure

[4] Department for Constitutional Affairs, (2006) 'Legal Aid: a sustainable future' Chapter 6 pp.27-31. Available: 8163 Diversity Pt 1 5th, https://webarchive.nationalarchives.gov.uk/ukgwa/20101014001356mp_/https:/consult.legalservices.gov.uk/gf2.ti/f/58306/1349861.1/pdf/-/Carterconsultation270706.pdf

[5] Department for Constitutional Affairs, (2006) 'Legal Aid Reform: the way ahead' p.24. Available: https://www.gov.uk/government/publications/legal-aid-reform-the-way-ahead

[6] Ministry of Justice (2010), 'Proposals for reform in legal aid', p.116, https://assets.publishing.service.gov.uk/media/5a7c811ae5274a559005a531/7967.pdf

Regulations ensures that the changes that were introduced by the Civil Legal Aid (Housing and Asylum Accommodation) Order 2023 (S.I. 2023/147) are reflected.

7. Consultation

Summary of consultation outcome and methodology

7.1 A consultation was undertaken from 24 January 2025 to 21 March 2025, 'Civil legal aid: Towards a sustainable future'. The consultation considered increases to civil legal aid fees for housing and immigration work. It also sought further evidence on potential changes to some aspects of contractual requirements for legal aid providers.

7.2 The consultation attracted 101 responses. These responses were submitted by a range of different stakeholders, with 34% of responses being from the not-for-profit sector, 31% from solicitors' firms, 15% from representative bodies, 4% from barristers' chambers, 4% from other respondents (including county councils and media firms) and 1% from academics. 12% of responses did not specify an organisation or sector.

7.3 To support the consultation, four roundtables were held with legal aid providers and representative bodies involved in civil legal aid. This included large, medium and small provider firms with representation from both the for-profit and not-for-profit sectors. The feedback received in these roundtables was also taken into consideration within the Government's response.

7.4 Both quantitative analysis (numerical data from closed questions where respondents were asked whether they agreed with the proposition) and qualitative analysis (insights from the free text questions) were used in analysing the responses to the consultation. Stakeholder responses were considered in detail and organised by theme. A theme was noted as being mentioned by a respondent if it was referred to in their free text answer – this includes when a respondent noted their views, raised the issue or explicitly recommended that something should be done in relation to that area.

7.5 The outcome of the consultation was published on Gov.UK on 2 July 2025.[7]

7.6 The feedback received on questions relating to fees (the subject of this SI) is summarised below:

- 51% of responses agreed with the principles that informed the government's decisions on civil legal aid fees. However, some responses expressed concern about whether the proposed measures would be sufficient to achieve the outlined aims.
- On the proposed fee levels for housing and immigration work, 93% of those who responded to the question welcomed the proposal to increase fees for housing and immigration work. Of those, 30% felt the proposed fee increase is not high enough. Additionally, 22% of responses indicated that fee increases are needed in other categories of law, with particular concern about the sustainability of the community care legal aid sector.
- On the proposal to implement immigration first, 25% of those who responded to the question agreed , with 42% of those responses indicating there are acute pressures facing the immigration sector.
- On the harmonisation of subsidiary fees, 45% of respondents to the question indicated that 'attendance at court or tribunal, or conference with counsel' should be remunerated higher than the proposed 50% of the preparation and attendance rate. After carefully considering the feedback raised, the government agreed that

[7] Please see the consultation response https://www.gov.uk/government/consultations/civil-legal-aid-towards-a-sustainable-future

there was good reason to make a policy change to the fee level in this area. This change recognises the consultation feedback and acknowledges that the activities required under the fee can often require more complex work than that under the travelling and waiting fee.

- On the proposal to harmonise the 'routine letters out and telephone calls', 30% of respondents to the question felt that the proposal was sensible.

7.7 We consulted on uplifting all immigration fees in the Remuneration Regulations, including interim hourly rates from table 8(ca) of Schedule 1. These fees were available for some Controlled Legal Representation (CLR) work started prior to 1 April 2023. However, given these uplifts are applicable only to work started after 22 December 2025, these interim hourly rates will not be claimable at uprated levels and have therefore not been included in the SI.

7.8 We also consulted on the basis we would have to phase implementation and uplift immigration fees first, with housing to follow. However, we are now in a position where we can implement fee uplifts for Controlled Work in both categories at the same time.

8. Applicable Guidance

8.1 This legislation is not currently accompanied by guidance. Where necessary, the Legal Aid Agency will provide guidance to legal aid providers on the changes in this instrument. Interested providers are likely to be already familiar with the fee changes.

8.2 Amendments will also be made to the 2024 Standard Civil Contract in relation to the housing and immigration categories of law.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

Impact on businesses, charities and voluntary bodies

9.2 There is no negative impact on business, charities or voluntary bodies. Any impact is expected to be positive as this change represents a significant investment – the first since 1996 –into the civil legal aid sector, once fully implemented.

9.3 The legislation does not negatively impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because legal aid is delivered via a private market consisting of legal professionals, independent to public bodies.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 Following implementation of these amendments the Ministry of Justice and the Legal Aid Agency will continue to monitor the impact of these changes on the legal aid scheme.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Minister of State at the Ministry of Justice, Sarah Sackman KC, has made the

following statement: “It would not be appropriate in the circumstances to make provision for a statutory review of this instrument because of the low impact on business.”

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

Sarah Sackman KC, Minister of State, has made the following statement regarding Human Rights:

“In my view the provisions of The Civil Legal Aid (Procedure and Remuneration) (Amendment) Regulations 2025 are compatible with the Convention rights.”

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”).