EXPLANATORY MEMORANDUM TO

THE CRIMINAL LEGAL AID (REMUNERATION) (AMENDMENT) (NO. 2) REGULATIONS 2024

2024 No. 1270

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.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Minister Dakin, Parliamentary Under-Secretary of State for Sentencing and Youth Justice at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

2.2 Kate Brittain, Deputy Director for Criminal Legal Aid, at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 James MacMillan at the Ministry of Justice (telephone: 07542 945 596 or email: James.macmillan2@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 The purpose of this instrument is to correct an error in one fee in the new Youth Court fee scheme, introduced by the Criminal Legal Aid (Remuneration) (Amendment) Regulations 2024 ("the 2024 Regulations").

Where does the legislation extend to, and apply?

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

4.3 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 The 2024 Regulations were laid on 14th November 2024 and come into force on 6th December 2024. They amend the Criminal Legal Aid (Remuneration) Regulations 2013 to establish a new fee scheme for the youth court, amongst other things.

5.2 An error has been identified in the new youth court fee scheme introduced by the 2024 Regulations. Specifically, the undesignated area standard lower fee for "Category 1A"

cases was mistakenly expressed as £882.47, when the correct fee is £822.47, as outlined in the Government response to the Crime Lower Consultation 2024. This instrument amends the 2024 Regulations to correct that error.

What was the previous policy, how is this different?

5.3 In reference to the Youth Court, the 2024 Regulations established a separate fee scheme, with an increase in fees for the most serious cases. This instrument simply corrects an error in the listing of those fees.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument will correct an error in the 2024 Regulations before it comes into force.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary change.

7. Consultation

Summary of consultation outcome and methodology

7.1 Following on from the previous government's response to the Criminal Legal Aid Independent Review, the Crime Lower Consultation ran from the 29th of January 2024 to the 28th of March 2024. This consulted on how allocated funding would be distributed amongst the police station and the Youth Court fee schemes.

7.2 This instrument ensures that the correct fees, as consulted upon, are implemented by rectifying the error in the 2024 Regulations.

8. Applicable Guidance

8.1 The Legal Aid Agency will issue guidance to legal aid providers.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is no significant impact to laying this instrument. An Impact Assessment was laid alongside the 2024 Regulations and published on the legislation.gov.uk website.

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is that legal aid providers will be paid at the correct rate. The impact of the 2024 Regulations was set out in the Explanatory Memorandum for those Regulations.

9.3 The legislation does not impact small or micro businesses.

9.4 Legal aid is out of the scope of the regulatory agenda. It is excluded by section 22(4)(c) of the Small Business Enterprise and Employment Act 2015 on the grounds that it relates to 'the giving of grants or other financial assistance by or on behalf of a public authority'. The measure does not require Reducing Regulation Committee or Regulatory Policy Committee clearance.

9.5 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The operation of and expenditure on the legal aid scheme is continually monitored by the Ministry of Justice and the Legal Aid Agency. As such, we will monitor the impact of the changes in this instrument from immediately after implementation.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Unfortunately, this instrument breaches the 21 day rule, but this is necessary to correct the 2024 Regulations before they come into force on 6 December 2024. This instrument has been made to correct an error in the 2024 Regulations and is being issued free of charge to all known recipients of the 2024 Regulations.

12. European Convention on Human Rights

12.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

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").