

2012 No. 2683

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Civil Legal Aid (Immigration Interviews) (Exceptions)
Regulations 2012**

<i>Made</i>	- - - -	<i>25th October 2012</i>
<i>Laid before Parliament</i>		<i>29th October 2012</i>
<i>Coming into force</i>	- -	<i>1st April 2013</i>

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by section 41(1) and (2) of and paragraph 30(3) of Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012(a).

Citation, commencement and interpretation

1. These Regulations may be cited as the Civil Legal Aid (Immigration Interviews) (Exceptions) Regulations 2012 and come into force on 1st April 2013.

2. In these Regulations—

“the Act” means the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“child” means—

(a) an individual who is under the age of 18; or

(b) an individual whose age is uncertain and who, at an immigration interview, is being treated by the Secretary of State as being under the age of 18;

“immigration interview” means an interview described in paragraph 30(3) of Part 1 of Schedule 1 to the Act;

“screening interview” means the first immigration interview in respect of the claim.

Attendance at immigration interviews: children

3. The civil legal services described in paragraph 30(1) of Part 1 of Schedule 1 to the Act include attendance at an immigration interview in any case in which the individual to whom the civil legal services are provided is a child at the time of that interview.

Attendance at immigration interviews: individuals who are not children

4. The civil legal services described in paragraph 30(1) of Part 1 of Schedule 1 to the Act include attendance at an immigration interview in which the individual to whom the civil legal services are provided is not a child where—

(a) the individual—

- (i) is detained in a place of detention specified in Schedule 2 to the Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005(a); or
 - (ii) lacks capacity within the meaning of section 2 of the Mental Capacity Act 2005(b); and
- (b) the interview is not a screening interview.

Signed by the authority of the Lord Chancellor

25th October 2012

McNally
Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

Paragraph 30 of Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (“the Schedule”) sets out the scope of civil legal services for which civil legal aid may be made available in relation to an individual’s rights to enter and remain in the United Kingdom under certain specified provisions. Paragraph 30(3) of Part 1 of the Schedule provides that such services do not include attendance at an immigration interview conducted on behalf of the Secretary of State with a view to reaching a decision on a claim, except where regulations provide otherwise.

These regulations provide for exceptions to paragraph 30(3).

Regulation 3 allows civil legal aid to be made available to cover attendance at any immigration interview where the individual being interviewed is under the age of 18 or is being treated as such for the purposes of the interview.

Where the individual being interviewed is not under the age of 18 or being treated as such, the effect of regulation 4 is that civil legal aid will not be made available for attendance at the first immigration interview and may only be made available for attendance at subsequent immigration interviews where the individual is detained at certain places of detention where their claim may be ‘fast tracked’ and dealt with more quickly than would otherwise be the case, or where the individual lacks mental capacity.

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- (a) S.I. 2005/560.
 - (b) 2005 c.9.

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