

NOTICE OF CONTRACT AMENDMENTS

AMENDMENTS TO THE 2010 STANDARD CRIME CONTRACT

FOR THE PURPOSES OF IMPLEMENTING THE MINISTRY OF JUSTICE'S "PROPOSALS FOR THE REFORM OF LEGAL AID IN ENGLAND AND WALES"

To be implemented on 3 October 2011

The contract amendments set out in this notice, which have been subject to consultation with the Consultative Bodies, will be incorporated into the 2010 Standard Crime Contract at 00.01 am on 3 October 2011 under Clause **13.2** of the 2010 Standard Crime Contract Standard Terms.

Background

On 15 November 2010 the Ministry of Justice (MoJ) published a consultation, "*Proposals for the reform of Legal Aid in England and Wales*"¹, which sought views on a number of proposals to reform aspects of the Legal Aid scheme. In particular, the consultation considered enhancing the lower and higher standard fees in the magistrates' court for certain either way cases determined suitable for summary trial, removing the premium paid for magistrates' courts standard fee cases in London and codifying expert fees in criminal cases.

On 21 June 2011 MoJ published their response to consultation². In their response, MoJ confirmed their intention to:

- enhance the lower and higher standard fees in the magistrates' court for certain either way cases determined suitable for summary trial; and
- remove the premium paid for magistrates' courts standard fee cases in London; and
- codify expert fees in criminal cases as set out in the "*Schedule of revised legal aid fees*"³ to the MoJ consultation response.

Ministers have decided to implement these fees set out in the "*Schedule of revised legal aid fees*" to the MoJ consultation response and on 24 August 2011 MoJ laid the **Criminal Defence Service (Funding) (Amendment) Order 2011 ("Order")** which comes into force on 3 October 2011.

This Order incorporates the proposals referred to above and also contains proposals to reform crown court remuneration. The Order is legislation which the LSC has to take account of, and which have necessitated appropriate amendments to the 2010 Standard Crime Contract Specification under Clause 13.2 of the 2010 Standard Terms.

¹ <http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-consultation.pdf>

² <http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-government-response.pdf>

³ <http://www.justice.gov.uk/downloads/consultations/legal-aid-fees-schedule.pdf>

Amendments to the 2010 Standard Crime Contract Specification

Full details of the amendments to the 2010 Standard Crime Contract Specification to implement the MoJ proposals referred to above can be found in the following documents that are accessible on the LSC webpage at

http://www.legalservices.gov.uk/criminal/contracting/2010_crime_contract.asp.

- Specification 2011 Part A Oct 11
- Specification 2011 Part B Oct 11
- Payment Annex Oct 11

A summary of the changes made in these documents is outlined below:

Specification 2011 Part A Oct 11

1. Amendment to the text of paragraph 5.34 to confirm that that the amounts claimed in respect of expert fees, if authorised, will be in accordance with the rates and provisions set out in the Criminal Defence Service (Funding) (Amendment) Order 2011.
2. Amendment to the text of paragraph 5.38 to clarify that subject to any such limits (as described in that paragraph) and the provisions set out in the Criminal Defence Service (Funding) (Amendment) Order 2011, the amounts claimed for expert fees should be justified on Assessment by us in the normal way.
3. Amendment to paragraph 5.42 in the second table "Section B Disbursements which may not be incurred" to clarify that a cancellation fee charged by an expert where the notice of cancellation was given to the expert more than 72 hours before the relevant hearing or appointment is a disbursement which may not be incurred.

Specification 2011 Part B Oct 11

4. Amendment to the text of paragraphs 10.65, 10.93, 10.94 (a) and 10.95 to clarify what category 1 fee may be claimed in the circumstances outlined in those paragraphs i.e. summary only or either way as appropriate to the type of offence.
5. Amendment to the text of paragraph 10.91 to delete the reference in it to claims for cases committed to the Crown Court under the CDS (Funding) Order 2007 (as amended). Such committal fees have now been abolished for representation orders granted on or after 3 October 2011.
6. Amendment to paragraph 10.91 in the table "Categories and Types of Proceedings" to include provision and a column for Category 1 (either way) offences that may be claimed by providers.

Payment Annex Oct 11

7. Amendment to the Payment Annex of the Specification to include enhancements to the lower and higher standard fees in the magistrates' court for certain either way cases determined to be suitable for summary trial, remove the premium paid for magistrates' courts standard fee cases in London and confirm that the revised rates apply to the relevant matters and cases started on or after 3 October 2011.