



Coroners and Justice Act 2009

2009 CHAPTER 25

PART 6

LEGAL AID AND OTHER PAYMENTS FOR LEGAL SERVICES

Community Legal Service

149 Community Legal Service: pilot schemes

- (1) The [Access to Justice Act 1999 \(c. 22\)](#) is amended as follows.
- (2) In section 6 (services which may be funded), after subsection (8) insert—
 - “(8A) The circumstances specified in a direction or authorisation under subsection (8) may be circumstances described by reference to—
 - (a) one or more areas or localities;
 - (b) one or more descriptions of court or tribunal.
 - (8B) A direction or authorisation under subsection (8) may provide that it requires or authorises the Commission to fund the provision of services only for—
 - (a) one or more specified classes of person;
 - (b) persons selected—
 - (i) by reference to specified criteria; or
 - (ii) on a sampling basis.”
- (3) After section 8 insert—

“8A Funding code: pilot provisions

- (1) The code may contain provisions (“pilot provisions”) which are to have effect for a specified period not exceeding 3 years.
- (2) Pilot provisions may be expressed so as to apply only in relation to—
 - (a) one or more specified areas or localities;

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- (b) one or more specified descriptions of court or tribunal;
 - (c) one or more specified descriptions of service that may be provided as part of the Community Legal Service;
 - (d) one or more specified classes of person;
 - (e) persons selected—
 - (i) by reference to specified criteria; or
 - (ii) on a sampling basis.
- (3) Pilot provisions may disapply any other provision of the code in relation to any of the matters mentioned in paragraphs (a) to (e) of subsection (2).
- (4) The period for the time being specified in relation to pilot provisions may be revised—
- (a) if the period is one of less than 3 years, so that it becomes a longer period not exceeding 3 years;
 - (b) so that it becomes a period which exceeds 3 years by such amount as the Commission thinks necessary for the purpose of securing that the pilot provisions remain in operation until the coming into force of a revised code that contains similar provisions that will have effect—
 - (i) generally, or
 - (ii) for purposes wider than those for which the pilot provisions have effect.
- (5) If the code contains pilot provisions, the code may also contain consequential or transitional provision with respect to the cessation of the pilot provisions on the expiry of the specified period (or that period as revised under subsection (4)).”
- (4) In section 9(5) (procedure relating to funding code) after “code”, in the second place it occurs, insert “or changes made in pursuance of section 8A”.
- (5) After section 11 insert—

“11A Pilot schemes

- (1) This section applies to the following instruments—
- (a) any order under section 6(4) or 8(9),
 - (b) any regulations under section 6(7), 7, 10 or 11, and
 - (c) any regulations under section 22(5) having effect in relation to the Community Legal Service.
- (2) Any instrument to which this section applies may be made so as to have effect for a specified period not exceeding 3 years.
- (3) In the following provisions of this section—
- (a) “pilot scheme” means any instrument which, in accordance with subsection (2), is made so as to have effect for a limited period;
 - (b) “connected instrument”, in relation to a pilot scheme, means an instrument made under the same provision as the pilot scheme.
- (4) A pilot scheme may provide that its provisions, or the provisions of a connected instrument, are to apply only in relation to—
- (a) one or more specified areas or localities;

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- (b) one or more specified descriptions of court or tribunal;
 - (c) one or more specified descriptions of service that may be provided as part of the Community Legal Service;
 - (d) one or more specified classes of person;
 - (e) persons selected—
 - (i) by reference to specified criteria; or
 - (ii) on a sampling basis.
- (5) The period for the time being specified in a pilot scheme may be varied—
- (a) if the period is one of less than 3 years, so that it becomes a longer period not exceeding 3 years;
 - (b) so that it becomes a period which exceeds 3 years by such amount as the Lord Chancellor thinks necessary for the purpose of securing that the pilot scheme remains in operation until the coming into force of a connected instrument that will have effect—
 - (i) generally, or
 - (ii) for purposes wider than those for which the pilot scheme has effect.
- (6) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period (or that period as varied under subsection (5)).”
- (6) In section 25 (orders and regulations), after subsection (9A) insert—
- “(9AA) No instrument (other than an order under section 6(4)) may be made in pursuance of section 11A unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.”

150 Excluded services: help in connection with business matters

- (1) Schedule 2 to the [Access to Justice Act 1999 \(c. 22\)](#) (services excluded from the Community Legal Service) is amended as follows.
- (2) In paragraph 1, omit paragraph (h) (matters arising out of the carrying on of a business) (but not the “or” following it).
- (3) After paragraph 1 insert—
 - “1A Services consisting of the provision of help to an individual in relation to matters arising out of or in connection with—
 - (a) a proposal by that individual to establish a business;
 - (b) the carrying on of a business by that individual (whether or not the business is being carried on at the time the services are provided);
 - (c) the termination or transfer of a business that was being carried on by that individual.”

Criminal Defence Service

151 Criminal Defence Service: information requests

- (1) In section 17A of the [Access to Justice Act 1999 \(c. 22\)](#) (contribution orders) before subsection (6) insert—

“(5A) In paragraphs 6(1) and 7(1) of Schedule 3 (information requests) the reference to regulations under paragraph 3B(3) is to be read as including a reference to regulations under this section.”

- (2) Schedule 3 to that Act (criminal defence service: right to representation) is amended in accordance with subsections (3) to (8).

- (3) In sub-paragraph (1) of paragraph 6—

- (a) for “the application of” substitute “how”, and
- (b) after “paragraph 3B(3),” insert “apply (or at any time applied)”.

- (4) In sub-paragraph (2) of that paragraph—

- (a) in paragraph (a) after “name” insert “(and any previous names)”,
- (b) in paragraph (b) after “address” insert “(and any previous addresses)”, and
- (c) in paragraph (e) after “status” insert “at any time specified in the request”.

- (5) In sub-paragraph (3) of that paragraph—

- (a) in paragraph (a) after “is” insert “, or at any time specified in the request was,”,
- (b) in paragraph (b) after “is” insert “, or at that time was,”,
- (c) after that paragraph insert—
 - “(ba) whether or not the individual is, or at any time specified in the request was, carrying on any business, trade or profession (and, if so, any name under which it is or was carried on and the address of any premises used for the purpose of carrying it on);”, and”
- (d) after paragraph (c) insert—
 - “(ca) the individual’s benefit status at any time specified in the request;”.

- (6) In sub-paragraph (4) of that paragraph—

- (a) for “subsection” substitute “sub-paragraph (2)(f) and”,
- (b) after “relating to” insert “(a)”, and
- (c) at the end add—
 - “(b) the individual’s assets (as defined in the regulations).”

- (7) In sub-paragraph (1) of paragraph 7—

- (a) for “the application of” substitute “how”, and
- (b) after “paragraph 3B(3),” insert “apply (or at any time applied)”.

- (8) In paragraph 8—

- (a) after sub-paragraph (4) insert—
 - “(4A) An office-holder is to be treated as employed by the person under whom the office is held.”, and
- (b) omit sub-paragraph (5).

152 Criminal Defence Service: enforcement of order to pay cost of representation

- (1) The [Access to Justice Act 1999 \(c. 22\)](#) is amended as follows.
- (2) In section 17 (terms of provision of funded services)—
 - (a) in subsection (3)(g) omit the words from “(including” to the end, and
 - (b) at the end add—
 - “(4) Regulations under subsection (3)(g) may in particular—
 - (a) make provision for costs incurred in connection with the enforcement of an order under subsection (2) to be recovered from the individual against whom the order is made;
 - (b) provide that any overdue sums are—
 - (i) recoverable summarily as a civil debt;
 - (ii) recoverable, if the High Court or a county court so orders on the application of the person or body to which the sums are due, as if they were payable under an order of the court in question.
 - (5) In this section “overdue sum” means—
 - (a) a sum which is unpaid after the time when it is required by an order under subsection (2) to be paid;
 - (b) a sum which is required to be paid under regulations made by virtue of subsection (4)(a).”
- (3) In section 17A (contribution orders)—
 - (a) in subsection (2)—
 - (i) in paragraph (d)(ii), after “order” insert “, or regulations made by virtue of subsection (2A)(a),”, and
 - (ii) in paragraph (e) omit “, including” to the end,
 - (b) after that subsection insert—
 - “(2A) Enforcement regulations may in particular—
 - (a) make provision for costs incurred in connection with the enforcement of a contribution order to be recovered from the individual against whom the order is made;
 - (b) provide for the withdrawal of an individual’s right to representation in certain circumstances;
 - (c) provide that any overdue sums are—
 - (i) recoverable summarily as a civil debt;
 - (ii) recoverable, if the High Court or a county court so orders on the application of the person or body to which the sums are due, as if they were payable under an order of the court in question;
 - (d) authorise a court to make motor vehicle orders in respect of an individual for the purpose of enabling any overdue sum required to be paid by that individual to be recovered by the person or body to which the sum is due.
 - (2B) In subsection (2A)(d)—

“court” means the High Court, a county court or a magistrates’ court;

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“motor vehicle order” means—

- (a) a clamping order;
- (b) a vehicle sale order.

(2C) A clamping order is an order—

- (a) that a motor vehicle be fitted with an immobilisation device (“clamped”), and
- (b) which complies with any requirements that are imposed by enforcement regulations with respect to the making of clamping orders.

(2D) A vehicle sale order is an order that—

- (a) a motor vehicle which is the subject of a clamping order is to be sold or otherwise disposed of in accordance with any provision made by enforcement regulations, and
- (b) any proceeds are to be applied, in accordance with enforcement regulations, in discharging the individual’s liability in respect of the overdue sum.

(2E) Schedule 3A makes provision about the content of enforcement regulations if provision of the kind mentioned in subsection (2A)(d) is made.”, and

(c) for subsection (6) of that section substitute—

“(6) In this section—

“contribution order” means an order made under regulations under subsection (1);

“enforcement regulations” means regulations made by virtue of subsection (2)(e);

“immobilisation device” has the meaning given by paragraph 8 of Schedule 3A;

“motor vehicle” has the meaning given by that paragraph;

“overdue sum” means—

- (a) a sum which is unpaid after the time when it is required by a contribution order to be paid;
- (b) any interest which is required to be paid by regulations made by virtue of subsection (2)(d);
- (c) a sum which is required to be paid under regulations made by virtue of subsection (2A)(a).”

(4) After Schedule 3 insert the Schedule 3A set out in Schedule 18 to this Act.

General

153 Statutory instruments relating to the Legal Services Commission

- (1) The [Access to Justice Act 1999 \(c. 22\)](#) is amended as follows.
- (2) In section 2 (power to replace Commission with two bodies), omit subsection (2).
- (3) In section 25 (orders and regulations), after subsection (8) insert—

“(8A) Any power to make an order or regulations under this Part includes power to make such consequential, incidental, supplementary, transitional, transitory or saving provision as appears to the Lord Chancellor to be appropriate.”

Regulation of certain agreements

154 Damages-based agreements relating to employment matters

- (1) The [Courts and Legal Services Act 1990 \(c. 41\)](#) is amended as follows.
- (2) After section 58A insert—

“58AA Damages-based agreements relating to employment matters

- (1) A damages-based agreement which relates to an employment matter and satisfies the conditions in subsection (4) is not unenforceable by reason only of its being a damages-based agreement.
- (2) But a damages-based agreement which relates to an employment matter and does not satisfy those conditions is unenforceable.
- (3) For the purposes of this section—
 - (a) a damages-based agreement is an agreement between a person providing advocacy services, litigation services or claims management services and the recipient of those services which provides that—
 - (i) the recipient is to make a payment to the person providing the services if the recipient obtains a specified financial benefit in connection with the matter in relation to which the services are provided, and
 - (ii) the amount of that payment is to be determined by reference to the amount of the financial benefit obtained;
 - (b) a damages-based agreement relates to an employment matter if the matter in relation to which the services are provided is a matter that is, or could become, the subject of proceedings before an employment tribunal.
- (4) The agreement—
 - (a) must be in writing;
 - (b) must not provide for a payment above a prescribed amount or for a payment above an amount calculated in a prescribed manner;
 - (c) must comply with such other requirements as to its terms and conditions as are prescribed; and
 - (d) must be made only after the person providing services under the agreement has provided prescribed information.
- (5) Regulations under subsection (4) are to be made by the Lord Chancellor and may make different provision in relation to different descriptions of agreements.
- (6) Before making regulations under subsection (4) the Lord Chancellor must consult—

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- (a) the designated judges,
- (b) the General Council of the Bar,
- (c) the Law Society, and
- (d) such other bodies as the Lord Chancellor considers appropriate.

(7) In this section—

“payment” includes a transfer of assets and any other transfer of money’s worth (and the reference in subsection (4)(b) to a payment above a prescribed amount, or above an amount calculated in a prescribed manner, is to be construed accordingly);

“claims management services” has the same meaning as in Part 2 of the Compensation Act 2006 (see section 4(2) of that Act).

(8) Nothing in this section applies to an agreement entered into before the coming into force of the first regulations made under subsection (4).”

(3) In section 120(4) (regulations and orders) after “58(4),” insert “58AA”.