



# Legal Aid, Sentencing and Punishment of Offenders Act 2012

## 2012 CHAPTER 10

### PART 1

#### LEGAL AID

##### *Contributions and costs*

#### **23 Payment for services**

- (1) An individual to whom services are made available under this Part is not to be required to make a payment in connection with the provision of the services, except where regulations provide otherwise.
- (2) The regulations may, in particular, provide that in prescribed circumstances an individual must do one or more of the following—
  - (a) pay the cost of the services;
  - (b) pay a contribution in respect of the cost of the services of a prescribed amount;
  - (c) pay a prescribed amount in respect of administration costs.
- (3) The regulations may, in particular, provide that where—
  - (a) civil legal services are provided to an individual under this Part in relation to a dispute, and
  - (b) prescribed conditions are met,the individual must pay a prescribed amount which may exceed the cost of the civil legal services provided.
- (4) The regulations may, in particular, make provision about the determination of the cost of services for the purposes of the regulations.
- (5) The regulations may, in particular—

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*Status: Point in time view as at 01/04/2013.*

**Changes to legislation:** *Legal Aid, Sentencing and Punishment of Offenders Act 2012, Cross Heading:*

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- (a) provide for an individual's liability under the regulations to make a payment to change or cease in prescribed circumstances,
  - (b) provide for an individual's liability under the regulations to arise on a determination by a prescribed person,
  - (c) provide for such a determination to be varied or withdrawn by a prescribed person, and
  - (d) provide for the review of such a determination in respect of an individual's liability to make a payment.
- (6) The regulations may, in particular, provide that an individual is to be treated, for the purposes of the regulations, as having or not having financial resources of a prescribed description.
- (7) Regulations under subsection (6) may, in particular, provide that the individual is to be treated as having prescribed financial resources of a person of a prescribed description.
- (8) The regulations may, in particular, include provision for an amount to be payable entirely or partly—
- (a) by periodical payments;
  - (b) by one or more lump sums;
  - (c) out of income;
  - (d) out of capital.
- (9) The regulations may, in particular, include—
- (a) provision requiring information and documents to be provided,
  - (b) provision about the time and manner in which payments must be made,
  - (c) provision about the person to whom payments must be made, and
  - (d) provision about what that person must do with the payments.
- (10) The regulations may, in particular, make provision for the payment by an individual of interest, on such terms as may be prescribed, in respect of—
- (a) a loan made to the individual under this Part,
  - (b) a payment in connection with the provision of services which is not required by the regulations to be made by the individual until after the time when the services are provided, and
  - (c) so much of a payment as remains unpaid after the time when it is required by the regulations to be made by the individual.
- (11) The regulations—
- (a) must make provision for the repayment to an individual of any amount in excess of the individual's liability under the regulations or under section 24, and
  - (b) may make provision for the payment of interest on the excess.
- (12) In this section—
- “administration costs” means costs in connection with the administration of legal aid, including the administration of charges arising under section 25;
  - “prescribed amount” includes an amount calculated in a prescribed manner.

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## **24 Enforcement**

- (1) Regulations may make provision about the enforcement of an obligation to make a payment imposed under section 23.
- (2) The regulations may, in particular, make provision for costs incurred in connection with the enforcement of an individual's obligation to make a payment to be recovered from the individual.
- (3) Regulations under this section may, in particular—
  - (a) provide that overdue amounts are recoverable summarily as a civil debt;
  - (b) provide that overdue amounts are recoverable as if they were payable under an order of the High Court or a county court, if the court in question so orders on the application of the person to whom the amounts are due.
- (4) Regulations under this section may include provision requiring information and documents to be provided.
- (5) Schedule 2 (criminal legal aid: motor vehicle orders) has effect.

## **25 Charges on property in connection with civil legal services**

- (1) Where civil legal services are made available to an individual under this Part, the amounts described in subsection (2) are to constitute a first charge on—
  - (a) any property recovered or preserved by the individual in proceedings, or in any compromise or settlement of a dispute, in connection with which the services were provided (whether the property is recovered or preserved for the individual or another person), and
  - (b) any costs payable to the individual by another person in connection with such proceedings or such a dispute.
- (2) Those amounts are—
  - (a) amounts expended by the Lord Chancellor in securing the provision of the services (except to the extent that they are recovered by other means), and
  - (b) other amounts payable by the individual in connection with the services under section 23 or 24.
- (3) Regulations may make provision for exceptions from subsection (1).
- (4) Regulations may make provision about the charge under subsection (1) including, in particular—
  - (a) provision as to whether the charge is in favour of the Lord Chancellor or a person by whom the services were made available,
  - (b) provision modifying the charge for the purposes of its application in prescribed cases or circumstances, and
  - (c) provision about the enforcement of the charge.
- (5) Regulations under subsection (4)(c) may, in particular, include—
  - (a) provision requiring amounts recovered by the individual in proceedings or as part of a compromise or settlement of a dispute, and costs payable to the individual, to be paid to the Lord Chancellor or a person by whom the services were made available,
  - (b) provision about the time and manner in which the amounts must be paid,

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- (c) provision about what the Lord Chancellor or the person by whom the services were made available must do with the amounts,
  - (d) provision for the payment of interest on all or part of the amounts,
  - (e) provision for the payment to the individual concerned of any amount in excess of the amounts described in subsection (2), and
  - (f) provision for the enforcement of requirements described in paragraph (a).
- (6) Regulations under this section may include provision requiring information and documents to be provided.

## 26 Costs in civil proceedings

- (1) Costs ordered against an individual in relevant civil proceedings must not exceed the amount (if any) which it is reasonable for the individual to pay having regard to all the circumstances, including—
- (a) the financial resources of all of the parties to the proceedings, and
  - (b) their conduct in connection with the dispute to which the proceedings relate.
- (2) In subsection (1) “relevant civil proceedings”, in relation to an individual, means—
- (a) proceedings for the purposes of which civil legal services are made available to the individual under this Part, or
  - (b) if such services are made available to the individual under this Part for the purposes of only part of proceedings, that part of the proceedings.
- (3) Regulations may make provision for exceptions from subsection (1).
- (4) In assessing for the purposes of subsection (1) the financial resources of an individual to whom civil legal services are made available, the following must not be taken into account, except so far as prescribed—
- (a) the individual's clothes and household furniture, and
  - (b) the implements of the individual's trade.
- (5) Subject to subsections (1) to (4), regulations may make provision about costs in relation to proceedings for the purposes of which civil legal services are made available under this Part.
- (6) Regulations under subsection (5) may, in particular, make provision—
- (a) specifying the principles to be applied in determining the amount of any costs which may be awarded against a party to whom civil legal services are made available under this Part,
  - (b) limiting the circumstances in which, or the extent to which, an order for costs may be enforced against such a party,
  - (c) as to the cases in which, and the extent to which, such a party may be required to give security for costs and the manner in which it is to be given,
  - (d) requiring the payment by the Lord Chancellor of the whole or part of any costs incurred by a party to whom civil legal services are not made available under this Part,
  - (e) specifying the principles to be applied in determining the amount of costs which may be awarded to a party to whom civil legal services are made available under this Part,
  - (f) as to the court, tribunal or other person by whom the amount of any costs is to be determined, and

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- (g) as to the extent to which any determination of that amount is to be final.
- (7) Regulations may provide that an individual is to be treated, for the purposes of subsection (1) or regulations under subsection (3) or (5), as having or not having financial resources of a prescribed description (but such regulations have effect subject to subsection (4)).
- (8) Regulations under subsection (7) may, in particular, provide that the individual is to be treated as having prescribed financial resources of a person of a prescribed description.
- (9) Regulations under this section may include provision requiring information and documents to be provided.

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