



# Legal Aid, Sentencing and Punishment of Offenders Act 2012

## 2012 CHAPTER 10

### PART 1

#### LEGAL AID

##### *Provision of legal aid*

#### **1 Lord Chancellor's functions**

- (1) The Lord Chancellor must secure that legal aid is made available in accordance with this Part.
- (2) In this Part “legal aid” means—
  - (a) civil legal services required to be made available under section 9 or 10 or paragraph 3 of Schedule 3 (civil legal aid), and
  - (b) services consisting of advice, assistance and representation required to be made available under section 13, 15 or 16 or paragraph 4 or 5 of Schedule 3 (criminal legal aid).
- (3) The Lord Chancellor may secure the provision of—
  - (a) general information about the law and the legal system, and
  - (b) information about the availability of advice about, and assistance in connection with, the law and the legal system.
- (4) The Lord Chancellor may do anything which is calculated to facilitate, or is incidental or conducive to, the carrying out of the Lord Chancellor's functions under this Part.
- (5) Nothing in this Part affects the powers that the Lord Chancellor has otherwise than under this Part.

## 2 Arrangements

- (1) The Lord Chancellor may make such arrangements as the Lord Chancellor considers appropriate for the purposes of carrying out the Lord Chancellor's functions under this Part.
- (2) The Lord Chancellor may, in particular, make arrangements by—
  - (a) making grants or loans to enable persons to provide services or facilitate the provision of services,
  - (b) making grants or loans to individuals to enable them to obtain services, and
  - (c) establishing and maintaining a body to provide services or facilitate the provision of services.
- (3) The Lord Chancellor may by regulations make provision about the payment of remuneration by the Lord Chancellor to persons who provide services under arrangements made for the purposes of this Part.
- (4) If the Lord Chancellor makes arrangements for the purposes of this Part that provide for a court, tribunal or other person to assess remuneration payable by the Lord Chancellor, the court, tribunal or person must assess the remuneration in accordance with the arrangements and, if relevant, with regulations under subsection (3).
- (5) The Lord Chancellor may make different arrangements, in particular, in relation to—
  - (a) different areas in England and Wales,
  - (b) different descriptions of case, and
  - (c) different classes of person.

## 3 Standards of service

- (1) The Lord Chancellor may set and monitor standards in relation to services made available under this Part.
- (2) The Lord Chancellor may, in particular, make arrangements for the accreditation of persons providing, or wishing to provide, such services by—
  - (a) the Lord Chancellor, or
  - (b) persons authorised by the Lord Chancellor.
- (3) Arrangements for accreditation must include—
  - (a) arrangements for monitoring services provided by accredited persons, and
  - (b) arrangements for withdrawing accreditation where the services provided are unsatisfactory.
- (4) The Lord Chancellor may impose charges in connection with—
  - (a) accreditation,
  - (b) monitoring services provided by accredited persons, and
  - (c) authorising accreditation by others.
- (5) Persons authorised by the Lord Chancellor may, in accordance with the terms of their authorisation, impose charges in connection with—
  - (a) accreditation, and
  - (b) monitoring services provided by accredited persons.

#### **4 Director of Legal Aid Casework**

- (1) The Lord Chancellor must designate a civil servant as the Director of Legal Aid Casework (“the Director”).
- (2) The Lord Chancellor must make arrangements for the provision to the Director by civil servants or other persons (or both) of such assistance as the Lord Chancellor considers appropriate.
- (3) The Director must—
  - (a) comply with directions given by the Lord Chancellor about the carrying out of the Director’s functions under this Part, and
  - (b) have regard to guidance given by the Lord Chancellor about the carrying out of those functions.
- (4) But the Lord Chancellor—
  - (a) must not give a direction or guidance about the carrying out of those functions in relation to an individual case, and
  - (b) must ensure that the Director acts independently of the Lord Chancellor when applying a direction or guidance under subsection (3) in relation to an individual case.
- (5) The Lord Chancellor must publish any directions and guidance given under this section.
- (6) Directions and guidance under this section may be revised or withdrawn from time to time.

#### **5 Delegation**

- (1) The following functions of the Lord Chancellor may be exercised by, or by employees of, a person authorised by the Lord Chancellor for that purpose—
  - (a) securing the provision of information under section 1(3), and
  - (b) setting and monitoring standards under section 3.
- (2) Regulations may provide for a function of the Lord Chancellor under regulations made under this Part to be exercisable by, or by employees of, a person authorised by the Lord Chancellor for that purpose.
- (3) The functions conferred on the Director by this Part may be exercised by, or by employees of, a person authorised by the Director for that purpose.
- (4) Regulations may provide for a function of the Director under regulations made under this Part to be exercisable by, or by employees of, a person authorised by the Director for that purpose.
- (5) A direction given by the Lord Chancellor under section 4 about the carrying out of the Director’s functions may, in particular, require the Director—
  - (a) to authorise, or not to authorise, a person to carry out a function specified in the direction, or
  - (b) to authorise, or not to authorise, a person specified, or of a description specified, in the direction to carry out such a function.
- (6) Regulations under subsection (2) or (4) may provide that a function may be exercised—

- (a) wholly or to a limited extent;
  - (b) generally or in particular cases or areas;
  - (c) unconditionally or subject to conditions.
- (7) An authorisation given for the purposes of this section or regulations under this section may provide that a function may be exercised—
- (a) wholly or to a limited extent;
  - (b) generally or in particular cases or areas;
  - (c) unconditionally or subject to conditions.
- (8) In the case of an authorisation given for the purposes of regulations under this section, subsection (7) is subject to the provisions of the regulations.

## 6 Authorisations

- (1) An authorisation given for the purposes of section 5 or regulations under that section—
- (a) may specify its duration,
  - (b) may specify or describe the authorised person,
  - (c) may be varied or revoked at any time by the person who gave it, and
  - (d) does not prevent the Lord Chancellor, the Director or another person from exercising the function to which the authorisation relates.
- (2) Anything done or omitted to be done by or in relation to a person authorised under section 5(1) or regulations under section 5(2) (or an employee of such a person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by the Lord Chancellor.
- (3) Anything done or omitted to be done by or in relation to a person authorised under section 5(3) or regulations under section 5(4) (or an employee of such a person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by the Director.
- (4) Subsections (2) and (3)—
- (a) do not affect the rights and liabilities of the authorised person or the Lord Chancellor under any arrangements made between them,
  - (b) do not prevent any civil proceedings which could otherwise be brought by or against the authorised person (or an employee of that person) from being brought,
  - (c) do not apply for the purposes of criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of that person), and
  - (d) do not make the Lord Chancellor or the Director liable under section 6 of the Human Rights Act 1998 in respect of any act or omission of an authorised person if the act or omission is of a private nature.
- (5) Where—
- (a) an authorisation given for the purposes of section 5 or regulations under that section is revoked, and
  - (b) at the time of the revocation so much of any contract made between the authorised person and the Lord Chancellor as relates to the exercise of the function is subsisting,

the authorised person is entitled to treat the contract as repudiated by the Lord Chancellor (and not as frustrated by reason of the revocation).

- (6) In this section “authorised person” means a person authorised for the purposes of section 5 or regulations under that section.

## **7 Annual report**

- (1) As soon as reasonably practicable after the end of each financial year, the Director must prepare an annual report for the financial year.
- (2) The annual report must state how the Director has carried out the functions of the office in the financial year.
- (3) The Director must send a copy of the report to the Lord Chancellor.
- (4) The Lord Chancellor must—
- (a) lay the copy of the report before Parliament, and
  - (b) arrange for it to be published.
- (5) In this section “financial year” means—
- (a) the period beginning on the day on which section 4 comes into force and ending on the following 31 March, and
  - (b) each successive period of 12 months.