



# Legal Aid, Sentencing and Punishment of Offenders Act 2012

## 2012 CHAPTER 10

### PART 1

#### LEGAL AID

##### *Civil legal aid*

#### 10 Exceptional cases

- (1) Civil legal services other than services described in Part 1 of Schedule 1 are to be available to an individual under this Part if subsection (2) or (4) is satisfied.
- (2) This subsection is satisfied where the Director—
  - (a) has made an exceptional case determination in relation to the individual and the services, and
  - (b) has determined that the individual qualifies for the services in accordance with this Part,(and has not withdrawn either determination).
- (3) For the purposes of subsection (2), an exceptional case determination is a determination—
  - (a) that it is necessary to make the services available to the individual under this Part because failure to do so would be a breach of—
    - (i) the individual's Convention rights (within the meaning of the Human Rights Act 1998), or
    - (ii) any rights of the individual to the provision of legal services that are enforceable EU rights, or
  - (b) that it is appropriate to do so, in the particular circumstances of the case, having regard to any risk that failure to do so would be such a breach.
- (4) This subsection is satisfied where—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the services consist of advocacy in proceedings at an inquest under the Coroners Act 1988 into the death of a member of the individual's family,
  - (b) the Director has made a wider public interest determination in relation to the individual and the inquest, and
  - (c) the Director has determined that the individual qualifies for the services in accordance with this Part,
- (and neither determination has been withdrawn).
- (5) For the purposes of subsection (4), a wider public interest determination is a determination that, in the particular circumstances of the case, the provision of advocacy under this Part for the individual for the purposes of the inquest is likely to produce significant benefits for a class of person, other than the individual and the members of the individual's family.
- (6) For the purposes of this section an individual is a member of another individual's family if—
- (a) they are relatives (whether of the full blood or half blood or by marriage or civil partnership),
  - (b) they are cohabitants (as defined in Part 4 of the Family Law Act 1996), or
  - (c) one has parental responsibility for the other.