



# Legal Aid, Sentencing and Punishment of Offenders Act 2012

## 2012 CHAPTER 10

### PART 2

#### LITIGATION FUNDING AND COSTS

##### *Payments for legal services in civil cases*

#### **52 Dissolution etc proceedings: orders for payment in respect of legal services**

- (1) Part 8 of Schedule 5 to the Civil Partnership Act 2004 (maintenance pending outcome of dissolution etc proceedings) is amended as follows.
- (2) In the heading of that Part after “Maintenance” insert “and other payments”.
- (3) Before paragraph 38 insert—

*“Maintenance orders”.*

- (4) In that paragraph—
  - (a) number the existing provision sub-paragraph (1), and
  - (b) after that sub-paragraph insert—
    - “(2) An order under this paragraph may not require one civil partner to pay to the other any amount in respect of legal services for the purposes of the proceedings.
    - (3) In sub-paragraph (2) “legal services” has the same meaning as in paragraph 38A.”
- (5) After that paragraph insert—

*“Orders in respect of legal services*

- 38A (1) In proceedings for a dissolution, nullity or separation order, the court may make an order or orders requiring one civil partner to pay to the other (“the applicant”) an amount for the purpose of enabling the applicant to obtain legal services for the purposes of the proceedings.
- (2) The court may also make such an order or orders in proceedings under this Schedule for financial relief in connection with proceedings for a dissolution, nullity or separation order.
- (3) The court must not make an order under this paragraph unless it is satisfied that, without the amount, the applicant would not reasonably be able to obtain appropriate legal services for the purposes of the proceedings or any part of the proceedings.
- (4) For the purposes of sub-paragraph (3), the court must be satisfied, in particular, that—
- (a) the applicant is not reasonably able to secure a loan to pay for the services, and
  - (b) the applicant is unlikely to be able to obtain the services by granting a charge over any assets recovered in the proceedings.
- (5) An order under this paragraph may be made for the purpose of enabling the applicant to obtain legal services of a specified description, including legal services provided in a specified period or for the purposes of a specified part of the proceedings.
- (6) An order under this paragraph may—
- (a) provide for the payment of all or part of the amount by instalments of specified amounts, and
  - (b) require the instalments to be secured to the satisfaction of the court.
- (7) An order under this paragraph may direct that payment of all or part of the amount is to be deferred.
- (8) The court may at any time in the proceedings vary an order made under this paragraph if it considers that there has been a material change of circumstances since the order was made.
- (9) For the purposes of the assessment of costs in the proceedings, the applicant’s costs are to be treated as reduced by any amount paid to the applicant pursuant to an order under this section for the purposes of those proceedings.
- (10) In this paragraph “legal services”, in relation to proceedings, means the following types of services—
- (a) providing advice as to how the law applies in the particular circumstances,
  - (b) providing advice and assistance in relation to the proceedings,
  - (c) providing other advice and assistance in relation to the settlement or other resolution of the dispute that is the subject of the proceedings, and

- (d) providing advice and assistance in relation to the enforcement of decisions in the proceedings or as part of the settlement or resolution of the dispute,  
and they include, in particular, advice and assistance in the form of representation and any form of dispute resolution, including mediation.
- (11) In sub-paragraphs (5) and (6) “specified” means specified in the order concerned.”