

This Order supersedes the defective draft SI ‘The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Amendment of Schedule 1: injunctions to prevent gang-related violence) Order’ (ISBN 078-0-11-111621-0) laid before Parliament on 9th June 2014 and is being issued free of charge to all known recipients of that draft Statutory Instrument.

Draft Order laid before Parliament under section 41(6) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2014 No.

LEGAL AID AND ADVICE, ENGLAND AND WALES

**The Legal Aid, Sentencing and Punishment of Offenders Act
2012 (Amendment of Schedule 1) (Advocacy Exceptions) Order
2014**

Made - - - -

Coming into force in accordance with article 1

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 9(2)(a) and 41(1)(b) and (2)(a) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(a).

In accordance with section 41(6) of that Act, a draft of this instrument has been laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Amendment of Schedule 1) (Advocacy Exceptions) Order 2014 and comes into force on the day after the day on which it is made.

Exceptions: advocacy in the Crown Court, magistrates’ court and Upper Tribunal

2.—(1) Part 3 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (advocacy: exclusion and exceptions) is amended as follows.

(2) In paragraph 6 (proceedings in the Crown Court)—

- (a) omit the “and” at the end of sub-paragraph (a);
- (b) after sub-paragraph (a) insert—

(a) 2012 c. 10. Section 9(2) enables the Lord Chancellor to modify Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Section 42(1) of the Act provides that in Part 1 of the Act, “modify” in relation to an Act or instrument, includes amend, repeal or revoke and related terms are to be interpreted accordingly.

“(aa) proceedings on an appeal under section 10(1)(b) of the Crime and Disorder Act 1998(a) against the making of a parenting order where an injunction is granted under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014(b),”; and

(c) after sub-paragraph (b) insert—

“(c) proceedings on an appeal under section 46B of the Policing and Crime Act 2009(c), and

(d) proceedings on an appeal under section 15 of the Anti-social Behaviour, Crime and Policing Act 2014(d).”

(3) In paragraph 7 (proceedings in a magistrates’ court)(e), in sub-paragraph (c) for “and 17(1)(a) and (b)” substitute “, 17 (1)(a) and (b), 36 and 38”.

(4) In paragraph 17 (proceedings in the Upper Tribunal)—

(a) omit the “or” at the end of sub-paragraph (a);

(b) at the end of sub-paragraph (b) insert “, or”; and

(c) after sub-paragraph (b) insert—

“(c) Part 3 of the Children and Families Act 2014(f) (children and young people in England with special educational needs or disabilities).”

Signed by authority of the Lord Chancellor

Date

Name
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Part 3 (advocacy: exclusion and exceptions) of Schedule 1 (civil legal services) to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“the Act”). Part 1 of Schedule 1 to the Act describes the matters for which civil legal aid is to be made available (subject to merits and means tests). Part 3 of Schedule 1 excludes advocacy from those services, subject to the exceptions set out in Part 3 of Schedule 1 or the provisions of Part 1 of that Schedule.

Article 2(2) of this Order amends the exception in paragraph 6 of Part 3 of Schedule 1 to the Act to bring within scope of civil legal aid advocacy in the Crown Court for three types of appeals: appeals from youth court decisions relating to injunctions under Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) (“the 2014 Act”), appeals under section 46B of the Policing and Crime Act 2009 (c. 26) (“the 2009 Act”), and appeals under section 10(1)(b) of the Crime and Disorder Act 1998 (c. 37) relating to parenting orders where an injunction is granted under section 1 of the 2014 Act.

Article 2(3) of the Order amends the exception in paragraph 7 of Part 3 of Schedule 1 to the Act to bring within scope of civil legal aid advocacy in a magistrates’ court in respect of injunctions to

(a) 1998 c. 37.

(b) 2014 c. 12. Section 8(1)(b), to which section 10(1)(b) relates, is amended by paragraph 25(2) of Schedule 11 to the Anti-social Behaviour, Crime and Policing Act 2014.

(c) 2009 c. 26. Section 46B is inserted by paragraph 2 of Schedule 12 to the Crime and Courts Act 2013 (c. 22).

(d) 2014 c. 12.

(e) Amended by S.I. 2014/605.

(f) 2014 c. 6. Paragraph 96 of Schedule 3 to the Children and Families Act 2014 inserted a reference to Part 3 of that Act in paragraph 2 of Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

prevent gang-related violence under Part 4 of the 2009 Act and injunctions under Part 1 of the 2014 Act.

Article 2(4) of this Order amends the exception in paragraph 17 of Part 3 of Schedule 1 to the Act to bring within scope of civil legal aid advocacy in the Upper Tribunal in respect of appeals under Part 3 of the Children and Families Act 2014 (c. 6).

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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