



# Access to Justice Act 1999

## 1999 CHAPTER 22

### PART I

#### LEGAL SERVICES COMMISSION

##### *Commission*

#### **1 Legal Services Commission**

- (1) There shall be a body known as the Legal Services Commission (in this Part referred to as “the Commission”).
- (2) The Commission shall have the functions relating to—
  - (a) the Community Legal Service, and
  - (b) the Criminal Defence Service,which are conferred or imposed on it by the provisions of this Act or any other enactment.
- (3) The Commission shall consist of—
  - (a) not fewer than seven members, and
  - (b) not more than twelve members;but the Lord Chancellor may by order substitute for either or both of the numbers for the time being specified in paragraphs (a) and (b) such other number or numbers as he thinks appropriate.
- (4) The members of the Commission shall be appointed by the Lord Chancellor; and the Lord Chancellor shall appoint one of the members to chair the Commission.
- (5) In appointing persons to be members of the Commission the Lord Chancellor shall have regard to the desirability of securing that the Commission includes members who (between them) have experience in or knowledge of—
  - (a) the provision of services which the Commission can fund as part of the Community Legal Service or Criminal Defence Service,

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*Status: This is the original version (as it was originally enacted).*

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- (b) the work of the courts,
- (c) consumer affairs,
- (d) social conditions, and
- (e) management.

(6) Schedule 1 (which makes further provision about the Commission) has effect.

## **2 Power to replace Commission with two bodies**

- (1) The Lord Chancellor may by order establish in place of the Commission two bodies—
  - (a) one to have functions relating to the Community Legal Service, and
  - (b) the other to have functions relating to the Criminal Defence Service.
- (2) The order may make any consequential, incidental, supplementary or transitional provisions, and any savings, which appear to the Lord Chancellor to be appropriate.
- (3) The order shall include amendments of—
  - (a) any provisions of, or amended by, this Part which refer to the Commission, and
  - (b) any other enactments which so refer,to replace references to the Commission with references to either or both of the bodies established by the order.

## **3 Powers of Commission**

- (1) Subject to the provisions of this Part, the Commission may do anything which it considers—
  - (a) is necessary or appropriate for, or for facilitating, the discharge of its functions, or
  - (b) is incidental or conducive to the discharge of its functions.
- (2) In particular, the Commission shall have power—
  - (a) to enter into any contract,
  - (b) to make grants (with or without conditions),
  - (c) to make loans,
  - (d) to invest money,
  - (e) to promote or assist in the promotion of publicity relating to its functions,
  - (f) to undertake any inquiry or investigation which it may consider appropriate in relation to the discharge of any of its functions, and
  - (g) to give the Lord Chancellor any advice which it may consider appropriate in relation to matters concerning any of its functions.
- (3) Subsections (1) and (2) do not confer on the Commission power to borrow money.
- (4) The Commission may make such arrangements as it considers appropriate for the discharge of its functions, including the delegation of any of its functions.
- (5) The Lord Chancellor may by order require the Commission—
  - (a) to delegate any function specified in the order or to delegate any function so specified to a person (or person of a description) so specified,
  - (b) not to delegate any function so specified or not to delegate any function so specified to a person (or person of a description) so specified, or

- (c) to make arrangements such as are specified in the order in relation to the delegation of any function so specified.

### *Community Legal Service*

## **4 Community Legal Service**

- (1) The Commission shall establish, maintain and develop a service known as the Community Legal Service for the purpose of promoting the availability to individuals of services of the descriptions specified in subsection (2) and, in particular, for securing (within the resources made available, and priorities set, in accordance with this Part) that individuals have access to services that effectively meet their needs.
- (2) The descriptions of services referred to in subsection (1) are—
  - (a) the provision of general information about the law and legal system and the availability of legal services,
  - (b) the provision of help by the giving of advice as to how the law applies in particular circumstances,
  - (c) the provision of help in preventing, or settling or otherwise resolving, disputes about legal rights and duties,
  - (d) the provision of help in enforcing decisions by which such disputes are resolved, and
  - (e) the provision of help in relation to legal proceedings not relating to disputes.
- (3) Services which the Commission is required to fund as part of the Criminal Defence Service do not fall within subsection (2).
- (4) Every person who exercises any function relating to the Community Legal Service shall have regard to the desirability of exercising it, so far as is reasonably practicable, so as to—
  - (a) promote improvements in the range and quality of services provided as part of the Community Legal Service and in the ways in which they are made accessible to those who need them,
  - (b) secure that the services provided in relation to any matter are appropriate having regard to its nature and importance, and
  - (c) achieve the swift and fair resolution of disputes without unnecessary or unduly protracted proceedings in court.
- (5) The Commission shall fund services of the descriptions specified in subsection (2) as part of the Community Legal Service in accordance with the following sections.
- (6) The Commission shall also inform itself about the need for, and the provision of, services of the descriptions specified in subsection (2) and about the quality of the services provided and, in co-operation with such authorities and other bodies and persons as it considers appropriate—
  - (a) plan what can be done towards meeting that need by the performance by the Commission of its functions, and
  - (b) facilitate the planning by other authorities, bodies and persons of what can be done by them to meet that need by the use of any resources available to them;and the Commission shall notify the Lord Chancellor of what it has done under this subsection.

- (7) The Commission may set and monitor standards in relation to services of the descriptions specified in subsection (2).
- (8) In particular, the Commission may accredit, or authorise others to accredit, persons or bodies providing services of the descriptions specified in subsection (2); and any system of accreditation shall include provision for the monitoring of the services provided by accredited persons and bodies and for the withdrawal of accreditation from any providing services of unsatisfactory quality.
- (9) The Commission may charge—
  - (a) for accreditation,
  - (b) for monitoring the services provided by accredited persons and bodies, and
  - (c) for authorising accreditation by others;and persons or bodies authorised to accredit may charge for accreditation, and for such monitoring, in accordance with the terms of their authorisation.
- (10) The Lord Chancellor may by order require the Commission to discharge the functions in subsections (6) to (9) in accordance with the order.

## **5 Funding of services**

- (1) The Commission shall establish and maintain a fund known as the Community Legal Service Fund from which it shall fund services as part of the Community Legal Service.
- (2) The Lord Chancellor—
  - (a) shall pay to the Commission the sums which he determines are appropriate for the funding of services by the Commission as part of the Community Legal Service, and
  - (b) may determine the manner in which and times at which the sums are to be paid to the Commission and may impose conditions on the payment of the sums.
- (3) In making any determination under subsection (2) the Lord Chancellor shall take into account (in addition to such other factors as he considers relevant) the need for services of the descriptions specified in subsection (2) of section 4 as notified to him by the Commission under subsection (6) of that section.
- (4) The Lord Chancellor shall lay before each House of Parliament a copy of every determination under subsection (2)(a).
- (5) The Commission shall pay into the Community Legal Service Fund—
  - (a) sums received from the Lord Chancellor under subsection (2), and
  - (b) sums received by the Commission by virtue of regulations under section 10 or 11.
- (6) The Lord Chancellor may by direction impose requirements on the Commission as to the descriptions of services to be funded from any specified amount paid into the Community Legal Service Fund.
- (7) In funding services as part of the Community Legal Service the Commission shall aim to obtain the best possible value for money.

## **6 Services which may be funded**

- (1) The Commission shall set priorities in its funding of services as part of the Community Legal Service and the priorities shall be set—
  - (a) in accordance with any directions given by the Lord Chancellor, and
  - (b) after taking into account the need for services of the descriptions specified in section 4(2).
- (2) Subject to that (and to subsection (6)), the services which the Commission may fund as part of the Community Legal Service are those which the Commission considers appropriate.
- (3) The Commission may fund services as part of the Community Legal Service by—
  - (a) entering into contracts with persons or bodies for the provision of services by them,
  - (b) making payments to persons or bodies in respect of the provision of services by them,
  - (c) making grants or loans to persons or bodies to enable them to provide, or facilitate the provision of, services,
  - (d) establishing and maintaining bodies to provide, or facilitate the provision of, services,
  - (e) making grants or loans to individuals to enable them to obtain services,
  - (f) itself providing services, or
  - (g) doing anything else which it considers appropriate for funding services.
- (4) The Lord Chancellor may by order require the Commission to discharge the function in subsection (3) in accordance with the order.
- (5) The Commission may fund as part of the Community Legal Service different descriptions of services or services provided by different means—
  - (a) in relation to different areas or communities in England and Wales, and
  - (b) in relation to different descriptions of cases.
- (6) The Commission may not fund as part of the Community Legal Service any of the services specified in Schedule 2.
- (7) Regulations may amend that Schedule by adding new services or omitting or varying any services.
- (8) The Lord Chancellor—
  - (a) may by direction require the Commission to fund the provision of any of the services specified in Schedule 2 in circumstances specified in the direction, and
  - (b) may authorise the Commission to fund the provision of any of those services in specified circumstances or, if the Commission request him to do so, in an individual case.
- (9) The Lord Chancellor shall either—
  - (a) publish, or
  - (b) require the Commission to publish,any authorisation under subsection (8)(b) unless it relates to an individual case (in which case he or the Commission may publish it if appropriate).

## **7 Individuals for whom services may be funded**

- (1) The Commission may only fund services for an individual as part of the Community Legal Service if his financial resources are such that, under regulations, he is an individual for whom they may be so funded.
- (2) Regulations may provide that, in prescribed circumstances and subject to any prescribed conditions, services of a prescribed description may be so funded for individuals without reference to their financial resources.
- (3) Regulations under this section may include provision requiring the furnishing of information.

## **8 Code about provision of funded services**

- (1) The Commission shall prepare a code setting out the criteria according to which it is to decide whether to fund (or continue to fund) services as part of the Community Legal Service for an individual for whom they may be so funded and, if so, what services are to be funded for him.
- (2) In settling the criteria to be set out in the code the Commission shall consider the extent to which they ought to reflect the following factors—
  - (a) the likely cost of funding the services and the benefit which may be obtained by their being provided,
  - (b) the availability of sums in the Community Legal Service Fund for funding the services and (having regard to present and likely future demands on that Fund) the appropriateness of applying them to fund the services,
  - (c) the importance of the matters in relation to which the services would be provided for the individual,
  - (d) the availability to the individual of services not funded by the Commission and the likelihood of his being able to avail himself of them,
  - (e) if the services are sought by the individual in relation to a dispute, the prospects of his success in the dispute,
  - (f) the conduct of the individual in connection with services funded as part of the Community Legal Service (or an application for funding) or in, or in connection with, any proceedings,
  - (g) the public interest, and
  - (h) such other factors as the Lord Chancellor may by order require the Commission to consider.
- (3) The criteria set out in the code shall reflect the principle that in many family disputes mediation will be more appropriate than court proceedings.
- (4) The code shall seek to secure that, where more than one description of service is available, the service funded is that which (in all the circumstances) is the most appropriate having regard to the criteria set out in the code.
- (5) The code shall also specify procedures for the making of decisions about the funding of services by the Commission as part of the Community Legal Service, including—
  - (a) provision about the form and content of applications for funding,
  - (b) provision imposing conditions which must be satisfied by an individual applying for funding,

- (c) provision requiring applicants to be informed of the reasons for any decision to refuse an application,
  - (d) provision for the giving of information to individuals whose applications are refused about alternative ways of obtaining or funding services, and
  - (e) provision establishing procedures for appeals against decisions about funding and for the giving of information about those procedures.
- (6) The code may make different provision for different purposes.
- (7) The Commission may from time to time prepare a revised version of the code.
- (8) Before preparing the code the Commission shall undertake such consultation as appears to it to be appropriate; and before revising the code the Commission shall undertake such consultation as appears to it to be appropriate unless it considers that it is desirable for the revised version to come into force without delay.
- (9) The Lord Chancellor may by order require the Commission to discharge its functions relating to the code in accordance with the order.

## **9 Procedure relating to funding code**

- (1) After preparing the code or a revised version of the code the Commission shall send a copy to the Lord Chancellor.
- (2) If he approves it he shall lay it before each House of Parliament.
- (3) The Commission shall publish—
- (a) the code as first approved by the Lord Chancellor, and
  - (b) where he approves a revised version, either the revisions or the revised code as appropriate.
- (4) The code as first approved by the Lord Chancellor shall not come into force until it has been approved by a resolution of each House of Parliament.
- (5) A revised version of the code which does not contain changes in the criteria set out in the code shall not come into force until it has been laid before each House of Parliament.
- (6) Subject as follows, a revised version of the code which does contain such changes shall not come into force until it has been approved by a resolution of each House of Parliament.
- (7) Where the Lord Chancellor considers that it is desirable for a revised version of the code containing such changes to come into force without delay, he may (when laying the revised version before Parliament) also lay before each House a statement of his reasons for so considering.
- (8) In that event the revised version of the code—
- (a) shall not come into force until it has been laid before each House of Parliament, and
  - (b) shall cease to have effect at the end of the period of 120 days beginning with the day on which it comes into force unless a resolution approving it has been made by each House (but without that affecting anything previously done in accordance with it).

## 10 Terms of provision of funded services

- (1) An individual for whom services are funded by the Commission as part of the Community Legal Service shall not be required to make any payment in respect of the services except where regulations otherwise provide.
- (2) Regulations may provide that, in prescribed circumstances, an individual for whom services are so funded shall—
  - (a) pay a fee of such amount as is fixed by or determined under the regulations,
  - (b) if his financial resources are, or relevant conduct is, such as to make him liable to do so under the regulations, pay the cost of the services or make a contribution in respect of the cost of the services of such amount as is so fixed or determined, or
  - (c) if the services relate to a dispute and he has agreed to make a payment (which may exceed the cost of the services) only in specified circumstances, make in those circumstances a payment of the amount agreed, or determined in the manner agreed, by him;and in paragraph (b) “relevant conduct” means conduct in connection with the services (or any application for their funding) or in, or in connection with, any proceedings in relation to which they are provided.
- (3) The regulations may include provision for any amount payable in accordance with the regulations to be payable by periodical payments or one or more capital sums, or both.
- (4) The regulations may also include provision for the payment by an individual of interest (on such terms as may be prescribed) in respect of—
  - (a) any loan made to him by the Commission as part of the Community Legal Service,
  - (b) any payment in respect of the cost of services required by the regulations to be made by him later than the time when the services are provided, or
  - (c) so much of any payment required by the regulations to be made by him which remains unpaid after the time when it is required to be paid.
- (5) The regulations shall include provision for the repayment to an individual of any payment made by him in excess of his liability under the regulations.
- (6) The regulations may—
  - (a) include provision requiring the furnishing of information, and
  - (b) make provision for the determination of the cost of services for the purposes of the regulations.
- (7) Except so far as regulations otherwise provide, where services have been funded by the Commission for an individual as part of the Community Legal Service—
  - (a) sums expended by the Commission in funding the services (except to the extent that they are recovered under section 11), and
  - (b) other sums payable by the individual by virtue of regulations under this section,shall constitute a first charge on any property recovered or preserved by him (whether for himself or any other person) in any proceedings or in any compromise or settlement of any dispute in connection with which the services were provided.
- (8) Regulations may make provision about the charge, including—

- (a) provision as to whether it is in favour of the Commission or the body or person by whom the services were provided, and
- (b) provision about its enforcement.

## **11 Costs in funded cases**

- (1) Except in prescribed circumstances, costs ordered against an individual in relation to any proceedings or part of proceedings funded for him shall not exceed the amount (if any) which is a reasonable one for him to pay having regard to all the circumstances including—
  - (a) the financial resources of all the parties to the proceedings, and
  - (b) their conduct in connection with the dispute to which the proceedings relate;and for this purpose proceedings, or a part of proceedings, are funded for an individual if services relating to the proceedings or part are funded for him by the Commission as part of the Community Legal Service.
- (2) In assessing for the purposes of subsection (1) the financial resources of an individual for whom services are funded by the Commission as part of the Community Legal Service, his clothes and household furniture and the tools and implements of his trade shall not be taken into account, except so far as may be prescribed.
- (3) Subject to subsections (1) and (2), regulations may make provision about costs in relation to proceedings in which services are funded by the Commission for any of the parties as part of the Community Legal Service.
- (4) The regulations 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 for whom services are funded by the Commission as part of the Community Legal Service,
  - (b) limiting the circumstances in which, or extent to which, an order for costs may be enforced against such a party,
  - (c) as to the cases in which, and 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 Commission of the whole or part of any costs incurred by a party for whom services are not funded by the Commission as part of the Community Legal Service,
  - (e) specifying the principles to be applied in determining the amount of any costs which may be awarded to a party for whom services are so funded,
  - (f) requiring the payment to the Commission, or the person or body by which the services were provided, of the whole or part of any sum awarded by way of costs to such a party, and
  - (g) as to the court, tribunal or other person or body by whom the amount of any costs is to be determined and the extent to which any determination of that amount is to be final.

### *Criminal Defence Service*

## **12 Criminal Defence Service**

- (1) The Commission shall establish, maintain and develop a service known as the Criminal Defence Service for the purpose of securing that individuals involved in criminal

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investigations or criminal proceedings have access to such advice, assistance and representation as the interests of justice require.

- (2) In this Part “criminal proceedings” means—
- (a) proceedings before any court for dealing with an individual accused of an offence,
  - (b) proceedings before any court for dealing with an individual convicted of an offence (including proceedings in respect of a sentence or order),
  - (c) proceedings for dealing with an individual under section 9 of, or paragraph 6 of Schedule 1 to, the Extradition Act 1989,
  - (d) proceedings for binding an individual over to keep the peace or to be of good behaviour under section 115 of the Magistrates' Courts Act 1980 and for dealing with an individual who fails to comply with an order under that section,
  - (e) proceedings on an appeal brought by an individual under section 44A of the Criminal Appeal Act 1968,
  - (f) proceedings for contempt committed, or alleged to have been committed, by an individual in the face of a court, and
  - (g) such other proceedings concerning an individual, before any such court or other body, as may be prescribed.
- (3) The Commission shall fund services as part of the Criminal Defence Service in accordance with sections 13 to 15.
- (4) The Commission may accredit, or authorise others to accredit, persons or bodies providing services which may be funded by the Commission as part of the Criminal Defence Service; and any system of accreditation shall include provision for the monitoring of the services provided by accredited persons and bodies and for the withdrawal of accreditation from any providing services of unsatisfactory quality.
- (5) The Commission may charge—
- (a) for accreditation,
  - (b) for monitoring the services provided by accredited persons and bodies, and
  - (c) for authorising accreditation by others;
- and persons or bodies authorised to accredit may charge for accreditation, and for such monitoring, in accordance with the terms of their authorisation.
- (6) The Lord Chancellor may by order require the Commission to discharge the functions in subsections (4) and (5) in accordance with the order.

### **13 Advice and assistance**

- (1) The Commission shall fund such advice and assistance as it considers appropriate—
- (a) for individuals who are arrested and held in custody at a police station or other premises, and
  - (b) for individuals involved in criminal investigations in such other circumstances as may be prescribed;
- and for this purpose “criminal investigations” means investigations relating to offences or to individuals convicted of an offence.
- (2) The Commission may comply with the duty imposed by subsection (1) by—

- (a) entering into contracts with persons or bodies for the provision of advice or assistance by them,
  - (b) making payments to persons or bodies in respect of the provision of advice or assistance by them,
  - (c) making grants or loans to persons or bodies to enable them to provide, or facilitate the provision of, advice or assistance,
  - (d) establishing and maintaining bodies to provide, or facilitate the provision of, advice or assistance,
  - (e) making grants to individuals to enable them to obtain advice or assistance,
  - (f) employing persons to provide advice or assistance, or
  - (g) doing anything else which it considers appropriate for funding advice and assistance.
- (3) The Lord Chancellor may by order require the Commission to discharge the function in subsection (2) in accordance with the order.
- (4) The Commission may fund advice and assistance by different means—
- (a) in different areas in England and Wales, and
  - (b) in relation to different descriptions of cases.

## 14 Representation

- (1) Schedule 3 (which makes provision about the grant of a right to representation in criminal proceedings) has effect; and the Commission shall fund representation to which an individual has been granted a right in accordance with that Schedule.
- (2) Subject to the following provisions, the Commission may comply with the duty imposed by subsection (1) by—
- (a) entering into contracts with persons or bodies for the provision of representation by them,
  - (b) making payments to persons or bodies in respect of the provision of representation by them,
  - (c) making grants or loans to persons or bodies to enable them to provide, or facilitate the provision of, representation,
  - (d) establishing and maintaining bodies to provide, or facilitate the provision of, representation,
  - (e) making grants to individuals to enable them to obtain representation,
  - (f) employing persons to provide representation, or
  - (g) doing anything else which it considers appropriate for funding representation.
- (3) The Lord Chancellor—
- (a) shall by order make provision about the payments which may be made by the Commission in respect of any representation provided by non-contracted private practitioners, and
  - (b) may by order make any other provision requiring the Commission to discharge the function in subsection (2) in accordance with the order.
- (4) For the purposes of subsection (3)(a) representation is provided by a non-contracted private practitioner if it is provided, otherwise than pursuant to a contract entered into by the Commission, by a person or body which is neither—

- (a) a person or body in receipt of grants or loans made by the Commission as part of the Criminal Defence Service, nor
  - (b) the Commission itself or a body established or maintained by the Commission.
- (5) The provision which the Lord Chancellor is required to make by order under subsection (3)(a) includes provision for reviews of, or appeals against, determinations required for the purposes of the order.
- (6) The Commission may fund representation by different means—
- (a) in different areas in England and Wales, and
  - (b) in relation to different descriptions of cases.

## **15 Selection of representative**

- (1) An individual who has been granted a right to representation in accordance with Schedule 3 may select any representative or representatives willing to act for him; and, where he does so, the Commission is to comply with the duty imposed by section 14(1) by funding representation by the selected representative or representatives.
- (2) Regulations may provide that in prescribed circumstances—
- (a) the right conferred by subsection (1) is not to apply in cases of prescribed descriptions,
  - (b) an individual who has been provided with advice or assistance funded by the Commission under section 13 by a person whom he chose to provide it for him is to be taken to have selected that person as his representative pursuant to that right,
  - (c) that right is not to include a right to select a representative of a prescribed description,
  - (d) that right is to select only a representative of a prescribed description,
  - (e) that right is to select not more than a prescribed number of representatives to act at any one time, and
  - (f) that right is not to include a right to select a representative in place of a representative previously selected.
- (3) Regulations under subsection (2)(b) may prescribe circumstances in which an individual is to be taken to have chosen a person to provide advice or assistance for him.
- (4) Regulations under subsection (2) may not provide that only a person employed by the Commission, or by a body established and maintained by the Commission, may be selected.
- (5) Regulations may provide that in prescribed circumstances the Commission is not required to fund, or to continue to fund, representation for an individual by a particular representative (but such provision shall not prejudice any right of the individual to select another representative).
- (6) The circumstances which may be prescribed by regulations under subsection (2) or (5) include that a determination has been made by a prescribed body or person.

## **16 Code of conduct**

- (1) The Commission shall prepare a code of conduct to be observed by employees of the Commission, and employees of any body established and maintained by the Commission, in the provision of services as part of the Criminal Defence Service.
- (2) The code shall include—
  - (a) duties to avoid discrimination,
  - (b) duties to protect the interests of the individuals for whom services are provided,
  - (c) duties to the court,
  - (d) duties to avoid conflicts of interest, and
  - (e) duties of confidentiality,and duties on employees who are members of a professional body to comply with the rules of the body.
- (3) The Commission may from time to time prepare a revised version of the code.
- (4) Before preparing or revising the code the Commission shall consult the Law Society and the General Council of the Bar and such other bodies or persons as it considers appropriate.
- (5) After preparing the code or a revised version of the code the Commission shall send a copy to the Lord Chancellor.
- (6) If he approves it he shall lay it before each House of Parliament.
- (7) The Commission shall publish—
  - (a) the code as first approved by the Lord Chancellor, and
  - (b) where he approves a revised version, either the revisions or the revised code as appropriate.
- (8) The code, and any revised version of the code, shall not come into force until it has been approved by a resolution of each House of Parliament.

## **17 Terms of provision of funded services**

- (1) An individual for whom services are funded by the Commission as part of the Criminal Defence Service shall not be required to make any payment in respect of the services except where subsection (2) applies.
- (2) Where representation for an individual in respect of criminal proceedings in any court other than a magistrates' court is funded by the Commission as part of the Criminal Defence Service, the court may, subject to regulations under subsection (3), make an order requiring him to pay some or all of the cost of any representation so funded for him (in proceedings in that or any other court).
- (3) Regulations may make provision about—
  - (a) the descriptions of individuals against whom an order under subsection (2) may be made,
  - (b) the circumstances in which such an order may be made and the principles to be applied in deciding whether to make such an order and the amount to be paid,
  - (c) the determination of the cost of representation for the purposes of the making of such an order,

- (d) the furnishing of information and evidence to the court or the Commission for the purpose of enabling the court to decide whether to make such an order and (if so) the amount to be paid,
- (e) prohibiting individuals who are required to furnish information or evidence from dealing with property until they have furnished the information or evidence or until a decision whether to make an order, or the amount to be paid, has been made,
- (f) the person or body to which, and manner in which, payments required by such an order must be made and what that person or body is to do with them, and
- (g) the enforcement of such an order (including provision for the imposition of charges in respect of unpaid amounts).

## **18 Funding**

- (1) The Lord Chancellor shall pay to the Commission such sums as are required to meet the costs of any advice, assistance and representation funded by the Commission as part of the Criminal Defence Service.
- (2) The Lord Chancellor may—
  - (a) determine the manner in which and times at which the sums referred to in subsection (1) shall be paid to the Commission, and
  - (b) impose conditions on the payment of the sums.
- (3) In funding services as part of the Criminal Defence Service the Commission shall aim to obtain the best possible value for money.

### *Supplementary*

## **19 Foreign law**

- (1) The Commission may not fund as part of the Community Legal Service or Criminal Defence Service services relating to any law other than that of England and Wales, unless any such law is relevant for determining any issue relating to the law of England and Wales.
- (2) But the Lord Chancellor may, if it appears to him necessary to do so for the purpose of fulfilling any obligation imposed on the United Kingdom by any international agreement, by order specify that there may be funded as part of the Community Legal Service or Criminal Defence Service (or both) services relating to the application of such other law as may be specified in the order.

## **20 Restriction of disclosure of information**

- (1) Subject to the following provisions of this section, information which is furnished—
  - (a) to the Commission or any court, tribunal or other person or body on whom functions are imposed or conferred by or under this Part, and
  - (b) in connection with the case of an individual seeking or receiving services funded by the Commission as part of the Community Legal Service or Criminal Defence Service,shall not be disclosed except as permitted by subsection (2).
- (2) Such information may be disclosed—

- (a) for the purpose of enabling or assisting the Commission to discharge any functions imposed or conferred on it by or under this Part,
  - (b) for the purpose of enabling or assisting the Lord Chancellor to discharge any functions imposed or conferred on him by or under this Part,
  - (c) for the purpose of enabling or assisting any court, tribunal or other person or body to discharge any functions imposed or conferred on it by or under this Part,
  - (d) except where regulations otherwise provide, for the purpose of the investigation or prosecution of any offence (or suspected offence) under the law of England and Wales or any other jurisdiction,
  - (e) in connection with any proceedings relating to the Community Legal Service or Criminal Defence Service, or
  - (f) for the purpose of facilitating the proper performance by any tribunal of disciplinary functions.
- (3) Subsection (1) does not limit the disclosure of—
- (a) information in the form of a summary or collection of information so framed as not to enable information relating to any individual to be ascertained from it, or
  - (b) information about the amount of any grant, loan or other payment made to any person or body by the Commission.
- (4) Subsection (1) does not prevent the disclosure of information for any purpose with the consent of the individual in connection with whose case it was furnished and, where he did not furnish it himself, with that of the person or body who did.
- (5) A person who discloses any information in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) Proceedings for an offence under this section shall not be brought without the consent of the Director of Public Prosecutions.
- (7) Nothing in this section applies to information furnished to a person providing services funded as part of the Community Legal Service or the Criminal Defence Service by or on behalf of an individual seeking or receiving such services.

## **21 Misrepresentation etc**

- (1) Any person who—
- (a) intentionally fails to comply with any requirement imposed by virtue of this Part as to the information to be furnished by him, or
  - (b) in furnishing any information required by virtue of this Part makes any statement or representation which he knows or believes to be false,
- shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to—
- (a) a fine not exceeding level 4 on the standard scale, or
  - (b) imprisonment for a term not exceeding three months,
- or to both.

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

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- (3) Proceedings in respect of an offence under subsection (1) may (despite anything in the Magistrates' Courts Act 1980) be brought at any time within the period of six months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify a prosecution comes to his knowledge.
- (4) But subsection (3) does not authorise the commencement of proceedings for an offence at a time more than two years after the date on which the offence was committed.
- (5) A county court shall have jurisdiction to hear and determine any action brought by the Commission to recover loss sustained by reason of—
  - (a) the failure of any person to comply with any requirement imposed by virtue of this Part as to the information to be furnished by him, or
  - (b) a false statement or false representation made by any person in furnishing any information required by virtue of this Part.

## **22 Position of service providers and other parties etc**

- (1) Except as expressly provided by regulations, the fact that services provided for an individual are or could be funded by the Commission as part of the Community Legal Service or Criminal Defence Service shall not affect—
  - (a) the relationship between that individual and the person by whom they are provided or any privilege arising out of that relationship, or
  - (b) any right which that individual may have to be indemnified in respect of expenses incurred by him by any other person.
- (2) A person who provides services funded by the Commission as part of the Community Legal Service or Criminal Defence Service shall not take any payment in respect of the services apart from—
  - (a) that made by way of that funding, and
  - (b) any authorised by the Commission to be taken.
- (3) The withdrawal of a right to representation previously granted to an individual shall not affect the right of any person who has provided to him services funded by the Commission as part of the Criminal Defence Service to remuneration for work done before the date of the withdrawal.
- (4) Except as expressly provided by regulations, any rights conferred by or by virtue of this Part on an individual for whom services are funded by the Commission as part of the Community Legal Service or Criminal Defence Service in relation to any proceedings shall not affect—
  - (a) the rights or liabilities of other parties to the proceedings, or
  - (b) the principles on which the discretion of any court or tribunal is normally exercised.
- (5) Regulations may make provision about the procedure of any court or tribunal in relation to services funded by the Commission as part of the Community Legal Service or Criminal Defence Service.
- (6) Regulations made under subsection (5) may in particular authorise the exercise of the functions of any court or tribunal by any member or officer of that or any other court or tribunal.

## **23 Guidance**

- (1) The Lord Chancellor may give guidance to the Commission as to the manner in which he considers it should discharge its functions.
- (2) The Commission shall take into account any such guidance when considering the manner in which it is to discharge its functions.
- (3) Guidance may not be given under this section in relation to individual cases.
- (4) The Lord Chancellor shall either—
  - (a) publish, or
  - (b) require the Commission to publish,any guidance given under this section.

## **24 Consequential amendments**

Schedule 4 (which makes amendments consequential on this Part) has effect.

## **25 Orders, regulations and directions**

- (1) Any power of the Lord Chancellor under this Part to make an order or regulations is exercisable by statutory instrument.
- (2) Before making any remuneration order relating to the payment of remuneration to barristers or solicitors the Lord Chancellor shall consult the General Council of the Bar and the Law Society.
- (3) When making any remuneration order the Lord Chancellor shall have regard to—
  - (a) the need to secure the provision of services of the description to which the order relates by a sufficient number of competent persons and bodies,
  - (b) the cost to public funds, and
  - (c) the need to secure value for money.
- (4) In subsections (2) and (3) “remuneration order” means an order under section 6(4), 13(3) or 14(3) which relates to the payment by the Commission of remuneration—
  - (a) for the provision of services by persons or bodies in individual cases, or
  - (b) by reference to the provision of services by persons or bodies in specified numbers of cases.
- (5) No directions may be given by the Lord Chancellor to the Commission under this Part in relation to individual cases.
- (6) Any directions given by the Lord Chancellor to the Commission under this Part may be varied or revoked.
- (7) The Lord Chancellor shall either—
  - (a) publish, or
  - (b) require the Commission to publish,any directions given by him under this Part.
- (8) Orders, regulations and directions of the Lord Chancellor under this Part may make different provision for different purposes (including different areas).

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

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- (9) No order shall be made under section 2 or 8 or paragraph 5(3) of Schedule 3, and no regulations shall be made under section 6(7), 11(1) or (4)(b) or (d) or 15(2)(a) or (5) or paragraph 4 of Schedule 3, unless a draft of the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (10) A statutory instrument containing any other order or regulations under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **26 Interpretation**

In this Part—

- “the Commission” means the Legal Services Commission,
- “the Community Legal Service Fund” has the meaning given by section 5(1),
- “criminal proceedings” has the meaning given in section 12(2),
- “prescribed” means prescribed by regulations and “prescribe” shall be construed accordingly,
- “regulations” means regulations made by the Lord Chancellor, and
- “representation” means representation for the purposes of proceedings and includes the assistance which is usually given by a representative in the steps preliminary or incidental to any proceedings and, subject to any time limits which may be prescribed, advice and assistance as to any appeal.