

LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012

EXPLANATORY NOTES

SUMMARY

Part 1: Legal Aid

Criminal legal aid

24. **Part 1** of the Act makes provision for individuals in custody at a police station or facing criminal investigation to be able to secure the provision of advice and assistance, including advocacy (usually by a duty solicitor). Determinations about whether individuals qualify for such services must be made having regard, in particular, to the interests of justice.
25. The Act also provides for individuals to be provided with representation for criminal proceedings. Whether such services should be provided is to be determined having regard to the interests of justice and, where provided for in regulations, following an assessment of the individual's financial resources. Determinations about whether an individual qualifies for criminal legal aid will be made by the Director or by a court. Provisional determinations may be made in favour of individuals involved in a criminal investigation. Such a determination may be made, for example, where plea negotiations are initiated by a prosecutor under the guidelines issued by the Attorney General.