

SCHEDULES

SCHEDULE 1

Section 9

CIVIL LEGAL SERVICES

PART 1

SERVICES

Care, supervision and protection of children

- 1 (1) Civil legal services provided in relation to—
 - (a) orders under section 25 of the Children Act 1989 (“the 1989 Act”) (secure accommodation);
 - (b) orders under Part 4 of the 1989 Act (care and supervision);
 - (c) orders under Part 5 of the 1989 Act (protection of children);
 - (d) approval by a court under paragraph 19 of Schedule 2 to the 1989 Act (arrangements to assist children to live abroad);
 - (e) parenting orders under section 8 of the Crime and Disorder Act 1998 (“the 1998 Act”);
 - (f) child safety orders under section 11 of the 1998 Act;
 - (g) orders for contact under section 26 of the Adoption and Children Act 2002 (“the 2002 Act”);
 - (h) applications for leave of the court to remove a child from a person’s custody under section 36 of the 2002 Act;
 - (i) placement orders, recovery orders or adoption orders under Chapter 3 of Part 1 of the 2002 Act (see sections 21, 41 and 46 of that Act);
 - (j) orders under section 84 of the 2002 Act (parental responsibility prior to adoption abroad).
- (2) Civil legal services provided in relation to an order under an enactment made—
 - (a) as an alternative to an order mentioned in sub-paragraph (1), or
 - (b) in proceedings heard together with proceedings relating to such an order.

Exclusions

- (3) Sub-paragraphs (1) and (2) are subject to the exclusions in Parts 2 and 3 of this Schedule.

Definitions

- (4) In this paragraph “children” means persons under the age of 18.

Special educational needs

- 2 (1) Civil legal services provided in relation to—
- (a) matters arising under Part 4 of the Education Act 1996 (special educational needs);
 - (b) assessments relating to learning difficulties under sections 139A and 140 of the Learning and Skills Act 2000.

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Abuse of child or vulnerable adult

- 3 (1) Civil legal services provided in relation to abuse of an individual that took place at a time when the individual was a child or vulnerable adult, but only where—
- (a) the services are provided to the individual, or
 - (b) the individual has died and the services are provided—
 - (i) to the individual’s personal representative, or
 - (ii) for the purposes of a claim under the Fatal Accidents Act 1976 for the benefit of the individual’s dependants.

General exclusions

- (2) Sub-paragraph (1) is subject to—
- (a) the exclusions in Part 2 of this Schedule, with the exception of paragraphs 1, 2, 3, 8 and 12 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Specific exclusions

- (3) The services described in sub-paragraph (1) do not include services provided in relation to clinical negligence.
- (4) The services described in sub-paragraph (1) do not include services provided in relation to a matter arising under a family enactment.

Definitions

- (5) In this paragraph—
- “abuse” means physical or mental abuse, including—
- (a) sexual abuse, and
 - (b) abuse in the form of violence, neglect, maltreatment and exploitation;
- “child” means a person under the age of 18;
- “clinical negligence” means breach of a duty of care or trespass to the person committed in the course of the provision of clinical or medical services (including dental or nursing services);
- “family enactment” has the meaning given in paragraph 12;
- “personal representative”, in relation to an individual who has died, means—
- (a) a person responsible for administering the individual’s estate under the law of England and Wales, Scotland or Northern Ireland, or

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- (b) a person who, under the law of another country or territory, has functions equivalent to those of administering the individual's estate;
- “vulnerable adult” means a person aged 18 or over whose ability to protect himself or herself from abuse is significantly impaired through physical or mental disability or illness, through old age or otherwise.

Working with children and vulnerable adults

- 4 (1) Civil legal services provided in relation to—
- (a) the inclusion of a person in a barred list or the removal of a person from a barred list;
 - (b) a disqualification order under section 28, 29 or 29A of the Criminal Justice and Court Services Act 2000 (disqualification from working with children);
 - (c) a direction under section 142 of the Education Act 2002 (prohibition from teaching etc).

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Definitions

- (3) In this paragraph “barred list” means a list maintained under—
- (a) section 2 of the Safeguarding Vulnerable Groups Act 2006 (persons barred from regulated activities relating to children or vulnerable adults);
 - (b) section 81 of the Care Standards Act 2000;
 - (c) section 1 of the Protection of Children Act 1999.

Mental health and mental capacity

- 5 (1) Civil legal services provided in relation to matters arising under—
- (a) the Mental Health Act 1983;
 - (b) paragraph 5(2) of the Schedule to the Repatriation of Prisoners Act 1984;
 - (c) the Mental Capacity Act 2005.

General exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Specific exclusion

- (3) The services described in sub-paragraph (1) do not include services provided in relation to—
- (a) the creation of lasting powers of attorney under the Mental Capacity Act 2005, or
 - (b) the making of advance decisions under that Act.
- (4) Sub-paragraph (3) does not exclude services provided in relation to determinations and declarations by a court under the Mental Capacity Act 2005 as to the validity, meaning, effect or applicability of—
- (a) a lasting power of attorney that has been created, or
 - (b) an advance decision that has been made.

Community care

- 6 (1) Civil legal services provided in relation to community care services.

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Definitions

- (3) In this paragraph—

“community care services” means services which a relevant person may provide or arrange to be provided under—

- (a) Part 3 of the National Assistance Act 1948 (“the 1948 Act”) (local authority support for children and families);
- (b) section 47 of the 1948 Act (removal to suitable premises of persons in need of care and attention);
- (c) section 48 of the 1948 Act (temporary protection for property of persons admitted to hospital);
- (d) section 45 of the Health Services and Public Health Act 1968 (arrangements for promoting welfare of old people);
- (e) section 117 of the Mental Health Act 1983 (after-care);
- (f) section 17 of the Children Act 1989 (“the 1989 Act”) (provision of services for children in need);
- (g) section 20 of the 1989 Act (provision of accommodation for children);
- (h) sections 22A, 22B, 22C and 23 of the 1989 Act (accommodation and maintenance for children in care and looked after children);
- (i) sections 23B and 23C of the 1989 Act (local authority functions in respect of relevant children);
- (j) sections 24, 24A and 24B of the 1989 Act (provision of services for persons qualifying for advice and assistance);
- (k) section 2 of the Carers and Disabled Children Act 2000 (services for carers);
- (l) section 254 of, and Schedule 20 to, the National Health Service Act 2006 (functions of local social service authorities);
- (m) section 192 of, and Schedule 15 to, the National Health Service (Wales) Act 2006 (functions of local social service authorities);

“relevant person” means—

- (a) a district council;
- (b) a county council;
- (c) a county borough council;
- (d) a London borough council;
- (e) the Common Council of the City of London;
- (f) a Primary Care Trust established under section 18 of the National Health Service Act 2006;
- (g) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;
- (h) any other person prescribed for the purposes of this paragraph.

Facilities for disabled persons

- 7 (1) Civil legal services provided in relation to grants under Part 1 of the Housing Grants, Construction and Regeneration Act 1996 for the provision of facilities for disabled persons.

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Definitions

- (3) In this paragraph “disabled person” has the meaning given in section 100 of the Housing Grants, Construction and Regeneration Act 1996.

Appeals relating to welfare benefits

- 8 (1) Civil legal services provided in relation to an appeal on a point of law to the Upper Tribunal, the Court of Appeal or the Supreme Court relating to a benefit, allowance, payment, credit or pension under—
- (a) a social security enactment,
 - (b) the Vaccine Damage Payments Act 1979, or
 - (c) Part 4 of the Child Maintenance and Other Payments Act 2008.

Exclusions

- (2) Sub-paragraph (1) is subject to—
- (a) the exclusions in Part 2 of this Schedule, with the exception of paragraphs 1 and 15 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Definitions

- (3) In this paragraph “social security enactment” means—
- (a) the Social Security Contributions and Benefits Act 1992,
 - (b) the Jobseekers Act 1995,
 - (c) the State Pension Credit Act 2002,
 - (d) the Tax Credits Act 2002,
 - (e) the Welfare Reform Act 2007,
 - (f) the Welfare Reform Act 2012, or
 - (g) any other enactment relating to social security.

Inherent jurisdiction of High Court in relation to children and vulnerable adults

- 9 (1) Civil legal services provided in relation to the inherent jurisdiction of the High Court in relation to children and vulnerable adults.

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Definitions

- (3) In this paragraph—
 “adults” means persons aged 18 or over;
 “children” means persons under the age of 18.

Unlawful removal of children

- 10 (1) Civil legal services provided to an individual in relation to the following orders and requirements where the individual is seeking to prevent the unlawful removal of a related child from the United Kingdom or to secure the return of a related child who has been unlawfully removed from the United Kingdom—
- (a) a prohibited steps order or specific issue order (as defined in section 8(1) of the Children Act 1989);
 - (b) an order under section 33 of the Family Law Act 1986 for disclosure of the child’s whereabouts;
 - (c) an order under section 34 of that Act for the child’s return;
 - (d) a requirement under section 37 of that Act to surrender a passport issued to, or containing particulars of, the child.
- (2) Civil legal services provided to an individual in relation to the following orders and applications where the individual is seeking to secure the return of a related child who has been unlawfully removed to a place in the United Kingdom—
- (a) a prohibited steps order or specific issue order (as defined in section 8(1) of the Children Act 1989);
 - (b) an application under section 27 of the Family Law Act 1986 for registration of an order relating to the child;
 - (c) an order under section 33 of that Act for disclosure of the child’s whereabouts;
 - (d) an order under section 34 of that Act for the child’s return.

Exclusions

- (3) Sub-paragraphs (1) and (2) are subject to the exclusions in Parts 2 and 3 of this Schedule.

Definitions

- (4) For the purposes of this paragraph, a child is related to an individual if the individual is the child’s parent or has parental responsibility for the child.
- (5) In this paragraph “child” means a person under the age of 18.

Family homes and domestic violence

- 11 (1) Civil legal services provided in relation to home rights, occupation orders and non-molestation orders under Part 4 of the Family Law Act 1996.
- (2) Civil legal services provided in relation to the following in circumstances arising out of a family relationship—
- (a) an injunction following assault, battery or false imprisonment;
 - (b) the inherent jurisdiction of the High Court to protect an adult.

Exclusions

- (3) Sub-paragraphs (1) and (2) are subject to—
- (a) the exclusions in Part 2 of this Schedule, with the exception of paragraphs 3 and 11 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Definitions

- (4) For the purposes of this paragraph—
- (a) there is a family relationship between two people if they are associated with each other, and
 - (b) “associated” has the same meaning as in Part 4 of the Family Law Act 1996 (see section 62 of that Act).
- (5) For the purposes of this paragraph, the Lord Chancellor may by regulations make provision about when circumstances arise out of a family relationship.

Victims of domestic violence and family matters

- 12 (1) Civil legal services provided to an adult (“A”) in relation to a matter arising out of a family relationship between A and another individual (“B”) where—
- (a) there has been, or is a risk of, domestic violence between A and B, and
 - (b) A was, or is at risk of being, the victim of that domestic violence.

General exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Part 2 of this Schedule, with the exception of paragraph 11 of that Part.
- (3) But the exclusions described in sub-paragraph (2) are subject to the exception in sub-paragraph (4).
- (4) The services described in sub-paragraph (1) include services provided in relation to conveyancing, but only where—
- (a) the services in relation to conveyancing are provided in the course of giving effect to a court order made in proceedings, and
 - (b) services described in that sub-paragraph (other than services in relation to conveyancing) are being or have been provided in relation to those proceedings under arrangements made for the purposes of this Part of this Act.
- (5) Sub-paragraph (1) is subject to the exclusion in Part 3 of this Schedule.

Specific exclusion

- (6) The services described in sub-paragraph (1) do not include services provided in relation to a claim in tort in respect of the domestic violence.

Definitions

- (7) For the purposes of this paragraph—
- (a) there is a family relationship between two people if they are associated with each other, and

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- (b) “associated” has the same meaning as in Part 4 of the Family Law Act 1996 (see section 62 of that Act).
- (8) For the purposes of this paragraph—
- (a) matters arising out of a family relationship include matters arising under a family enactment, and
- (b) (subject to paragraph (a)) the Lord Chancellor may by regulations make provision about when matters arise out of a family relationship.
- (9) In this paragraph—
- “adult” means a person aged 18 or over;
- “domestic violence” means any incident of threatening behaviour, violence or abuse (whether psychological, physical, sexual, financial or emotional) between individuals who are associated with each other;
- “family enactment” means—
- (a) section 17 of the Married Women’s Property Act 1882 (questions between husband and wife as to property);
- (b) the Maintenance Orders (Facilities for Enforcement) Act 1920;
- (c) the Maintenance Orders Act 1950;
- (d) the Maintenance Orders Act 1958;
- (e) the Maintenance Orders (Reciprocal Enforcement) Act 1972;
- (f) Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 (staying of matrimonial proceedings) and corresponding provision in relation to civil partnerships made by rules of court under section 223 of the Civil Partnership Act 2004;
- (g) the Matrimonial Causes Act 1973;
- (h) the Inheritance (Provision for Family Dependants) Act 1975;
- (i) the Domestic Proceedings and Magistrates’ Courts Act 1978;
- (j) Part 3 of the Matrimonial and Family Proceedings Act 1984 (financial relief after overseas divorce etc);
- (k) Parts 1 and 3 of the Family Law Act 1986 (child custody and declarations of status);
- (l) Parts 1 and 2 of the Children Act 1989 (orders with respect to children in family proceedings);
- (m) section 53 of, and Schedule 7 to, the Family Law Act 1996 (transfer of tenancies on divorce etc or separation of cohabitants);
- (n) Chapters 2 and 3 of Part 2 of the Civil Partnership Act 2004 (dissolution, nullity and other proceedings and property and financial arrangements);
- (o) section 54 of the Human Fertilisation and Embryology Act 2008 (applications for parental orders).

Protection of children and family matters

- 13 (1) Civil legal services provided to an adult (“A”) in relation to the following orders and procedures where the child who is or would be the subject of the order is at risk of abuse from an individual other than A—
- (a) orders under section 4(2A) of the Children Act 1989 (“the 1989 Act”) (removal of father’s parental responsibility);

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- (b) orders under section 6(7) of the 1989 Act (termination of appointment of guardian);
- (c) orders mentioned in section 8(1) of the 1989 Act (residence, contact and other orders);
- (d) special guardianship orders under Part 2 of the 1989 Act;
- (e) orders under section 33 of the Family Law Act 1986 (“the 1986 Act”) (disclosure of child’s whereabouts);
- (f) orders under section 34 of the 1986 Act (return of child).

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Definitions

- (3) In this paragraph—
 - “abuse” means physical or mental abuse, including—
 - (a) sexual abuse, and
 - (b) abuse in the form of violence, neglect, maltreatment and exploitation;
 - “adult” means a person aged 18 or over;
 - “child” means a person under the age of 18.

Mediation in family disputes

- 14 (1) Mediation provided in relation to family disputes.
- (2) Civil legal services provided in connection with the mediation of family disputes.

Exclusions

- (3) Sub-paragraphs (1) and (2) are subject to the exclusions in Part 2 of this Schedule, with the exception of paragraph 11 of that Part.
- (4) But the exclusions described in sub-paragraph (3) are subject to the exception in sub-paragraph (5).
- (5) The services described in sub-paragraph (2) include services provided in relation to conveyancing, but only where—
 - (a) the services in relation to conveyancing are provided in the course of giving effect to arrangements for the resolution of a family dispute, and
 - (b) services described in that sub-paragraph or sub-paragraph (1) (other than services in relation to conveyancing) are being or have been provided in relation to the dispute under arrangements made for the purposes of this Part of this Act.
- (6) Sub-paragraphs (1) and (2) are subject to the exclusion in Part 3 of this Schedule.

Definitions

- (7) For the purposes of this paragraph—
 - (a) a dispute is a family dispute if it is a dispute between individuals about a matter arising out of a family relationship between the individuals,

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

- (b) there is a family relationship between two individuals if they are associated with each other, and
 - (c) “associated” has the same meaning as in Part 4 of the Family Law Act 1996 (see section 62 of that Act).
- (8) For the purposes of this paragraph—
- (a) matters arising out of a family relationship include matters arising under a family enactment, and
 - (b) (subject to paragraph (a)) the Lord Chancellor may by regulations make provision about when matters arise out of a family relationship.
- (9) In this paragraph—
- “child” means a person under the age of 18;
 - “family enactment” has the meaning given in paragraph 12.

Children who are parties to family proceedings

- 15 (1) Civil legal services provided to a child in relation to family proceedings—
- (a) where the child is, or proposes to be, the applicant or respondent;
 - (b) where the child is made a party to the proceedings by a court under rule 16.2 of the Family Procedure Rules;
 - (c) where the child is a party to the proceedings and is conducting, or proposes to conduct, the proceedings without a children’s guardian or litigation friend in accordance with rule 16.6 of the Family Procedure Rules.

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Definitions

- (3) For the purposes of this paragraph—
- (a) proceedings are family proceedings if they relate to a matter arising out of a family relationship,
 - (b) there is a family relationship between two individuals if they are associated with each other, and
 - (c) “associated” has the same meaning as in Part 4 of the Family Law Act 1996 (see section 62 of that Act).
- (4) For the purposes of this paragraph—
- (a) matters arising out of a family relationship include matters arising under a family enactment, and
 - (b) (subject to paragraph (a)) the Lord Chancellor may by regulations make provision about when matters arise out of a family relationship.
- (5) In this paragraph—
- “child” means a person under the age of 18;
 - “family enactment” has the meaning given in paragraph 12.

Forced marriage

- 16 (1) Civil legal services provided in relation to forced marriage protection orders under Part 4A of the Family Law Act 1996.

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

EU and international agreements concerning children

- 17 (1) Civil legal services provided in relation to—
- (a) an application made to the Lord Chancellor under the 1980 European Convention on Child Custody for the recognition or enforcement in England and Wales of a decision relating to the custody of a child;
 - (b) an application made to the Lord Chancellor under the 1980 Hague Convention in respect of a child who is, or is believed to be, in England and Wales;
 - (c) the recognition or enforcement of a judgment in England and Wales in accordance with Article 21, 28, 41, 42 or 48 of the 2003 Brussels Regulation.

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Definitions

- (3) In this paragraph—
- “the 1980 European Convention on Child Custody” means the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on the Restoration of Custody of Children which was signed in Luxembourg on 20 May 1980;
 - “the 1980 Hague Convention” means the Convention on the Civil Aspects of International Child Abduction which was signed at The Hague on 25 October 1980;
 - “the 2003 Brussels Regulation” means Council Regulation (EC) No. 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.
- (4) For the purposes of this paragraph, an application is made to the Lord Chancellor if it is addressed to the Lord Chancellor or transmitted to the Lord Chancellor in accordance with section 3 or 14 of the Child Abduction and Custody Act 1985.

EU and international agreements concerning maintenance

- 18 (1) Civil legal services provided in relation to an application under the following for the recognition or enforcement in England and Wales of a maintenance order—
- (a) the 1968 Brussels Convention;
 - (b) the 1973 Hague Convention;
 - (c) the 1989 Lugano Convention;
 - (d) the 2000 Brussels Regulation;
 - (e) the 2007 Lugano Convention.

- (2) Civil legal services provided in relation to an application under Article 56 of the EU Maintenance Regulation (applications relating to maintenance decisions).
- (3) Civil legal services provided to an individual in relation to proceedings in England and Wales relating to the recognition, enforceability or enforcement of a maintenance decision in circumstances in which the individual falls within Article 47(2) or (3) of the EU Maintenance Regulation (parties who benefited from free legal aid etc in Member State of origin).

Exclusions

- (4) Sub-paragraphs (1) to (3) are subject to—
 - (a) the exclusions in Part 2 of this Schedule, with the exception of paragraph 11 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Definitions

- (5) In this paragraph—
 - “the 1968 Brussels Convention” means the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters (including the Protocol annexed to that Convention) signed at Brussels on 27 September 1968;
 - “the 1973 Hague Convention” means the Convention on the recognition and enforcement of decisions relating to maintenance obligations concluded at The Hague on 2 October 1973;
 - “the 1989 Lugano Convention” means the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters (including the Protocols annexed to that Convention) opened for signature at Lugano on 16 September 1988 and signed by the United Kingdom on 18 September 1989;
 - “the 2000 Brussels Regulation” means Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters;
 - “the 2007 Lugano Convention” means the Convention on jurisdiction and enforcement of judgments in civil and commercial matters, between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark signed on behalf of the European Community on 30 October 2007;
 - “the EU Maintenance Regulation” means Council Regulation (EC) No. 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and co-operation in matters relating to maintenance obligations;
 - “maintenance order”, in relation to a convention or regulation listed in this paragraph, means a maintenance judgment within the meaning of that convention or regulation.

Judicial review

- 19 (1) Civil legal services provided in relation to judicial review of an enactment, decision, act or omission.

General exclusions

- (2) Sub-paragraph (1) is subject to—
- (a) the exclusions in Part 2 of this Schedule, with the exception of paragraphs 1, 2, 3, 4, 5, 6, 8, 12, 15 and 16 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Specific exclusion: benefit to individual

- (3) The services described in sub-paragraph (1) do not include services provided to an individual in relation to judicial review that does not have the potential to produce a benefit for the individual, a member of the individual's family or the environment.
- (4) Sub-paragraph (3) does not exclude services provided in relation to a judicial review where the judicial review ceases to have the potential to produce such a benefit after civil legal services have been provided in relation to the judicial review under arrangements made for the purposes of this Part of this Act.

Specific exclusions: immigration cases

- (5) The services described in sub-paragraph (1) do not include services provided in relation to judicial review in respect of an issue relating to immigration where—
- (a) the same issue, or substantially the same issue, was the subject of a previous judicial review or an appeal to a court or tribunal,
 - (b) on the determination of the previous judicial review or appeal (or, if there was more than one, the latest one), the court, tribunal or other person hearing the case found against the applicant or appellant on that issue, and
 - (c) the services in relation to the new judicial review are provided before the end of the period of 1 year beginning with the day of that determination.
- (6) The services described in sub-paragraph (1) do not include services provided in relation to judicial review of removal directions in respect of an individual where the directions were given not more than 1 year after the latest of the following—
- (a) the making of the decision (or, if there was more than one, the latest decision) to remove the individual from the United Kingdom by way of removal directions;
 - (b) the refusal of leave to appeal against that decision;
 - (c) the determination or withdrawal of an appeal against that decision.
- (7) Sub-paragraphs (5) and (6) do not exclude services provided to an individual in relation to—
- (a) judicial review of a negative decision in relation to an asylum application (within the meaning of the EU Procedures Directive) where there is no right of appeal to the First-tier Tribunal against the decision;
 - (b) judicial review of certification under section 94 or 96 of the Nationality, Immigration and Asylum Act 2002 (certificate preventing or restricting appeal of immigration decision).
- (8) Sub-paragraphs (5) and (6) do not exclude services provided in relation to judicial review of removal directions in respect of an individual where prescribed conditions relating to either or both of the following are met—
- (a) the period between the individual being given notice of the removal directions and the proposed time for his or her removal;
 - (b) the reasons for proposing that period.

Definitions

- (9) For the purposes of this paragraph 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.

- (10) In this paragraph—

“EU Procedures Directive” means Council Directive [2005/85/EC](#) of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status;

“an issue relating to immigration” includes an issue relating to rights described in paragraph [30](#) of this Part of this Schedule;

“judicial review” means—

- (a) the procedure on an application for judicial review (see section 31 of the Senior Courts Act 1981), but not including the procedure after the application is treated under rules of court as if it were not such an application, and
- (b) any procedure in which a court, tribunal or other person mentioned in Part [3](#) of this Schedule is required by an enactment to make a decision applying the principles that are applied by the court on an application for judicial review;

“removal directions” means directions under—

- (a) paragraphs 8 to 10A of Schedule 2 to the Immigration Act 1971 (removal of persons refused leave to enter and illegal entrants);
- (b) paragraphs 12 to 14 of Schedule 2 to that Act (removal of seamen and aircrew);
- (c) paragraph 1 of Schedule 3 to that Act (removal of persons liable to deportation);
- (d) section 10 of the Immigration and Asylum Act 1999 (removal of certain persons unlawfully in the United Kingdom);
- (e) section 47 of the Immigration, Asylum and Nationality Act 2006 (removal of persons with statutorily extended leave).

Habeas corpus

- 20 (1) Civil legal services provided in relation to a writ of habeas corpus ad subjiciendum.

Exclusions

- (2) Sub-paragraph [\(1\)](#) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Abuse of position or powers by public authority

- 21 (1) Civil legal services provided in relation to abuse by a public authority of its position or powers.

General exclusions

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

- (2) Sub-paragraph (1) is subject to—
- (a) the exclusions in Part 2 of this Schedule, with the exception of paragraphs 1, 2, 3, 4, 5, 6, 8 and 12 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Specific exclusion

- (3) The services described in sub-paragraph (1) do not include services provided in relation to clinical negligence.

Definitions

- (4) For the purposes of this paragraph, an act or omission by a public authority does not constitute an abuse of its position or powers unless the act or omission—
- (a) is deliberate or dishonest, and
 - (b) results in harm to a person or property that was reasonably foreseeable.

- (5) In this paragraph—

“clinical negligence” means breach of a duty of care or trespass to the person committed in the course of the provision of clinical or medical services (including dental or nursing services);

“public authority” has the same meaning as in section 6 of the Human Rights Act 1998.

Breach of Convention rights by public authority

- 22 (1) Civil legal services provided in relation to—
- (a) a claim in tort, or
 - (b) a claim for damages (other than a claim in tort),
- in respect of an act or omission by a public authority that involves a significant breach of Convention rights by the authority.

General exclusions

- (2) Sub-paragraph (1) is subject to—
- (a) the exclusions in Part 2 of this Schedule, with the exception of paragraphs 1, 2, 3, 4, 5, 6, 8 and 12 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Specific exclusion

- (3) The services described in sub-paragraph (1) do not include services provided in relation to clinical negligence.

Definitions

- (4) In this paragraph—

“clinical negligence” means breach of a duty of care or trespass to the person committed in the course of the provision of clinical or medical services (including dental or nursing services);

“Convention rights” has the same meaning as in the Human Rights Act 1998;

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

“public authority” has the same meaning as in section 6 of that Act.

Clinical negligence and severely disabled infants

- 23 (1) Civil legal services provided in relation to a claim for damages in respect of clinical negligence which caused a neurological injury to an individual (“V”) as a result of which V is severely disabled, but only where the first and second conditions are met.
- (2) The first condition is that the clinical negligence occurred—
- (a) while V was in his or her mother’s womb, or
 - (b) during or after V’s birth but before the end of the following period—
 - (i) if V was born before the beginning of the 37th week of pregnancy, the period of 8 weeks beginning with the first day of what would have been that week;
 - (ii) if V was born during or after the 37th week of pregnancy, the period of 8 weeks beginning with the day of V’s birth.
- (3) The second condition is that—
- (a) the services are provided to V, or
 - (b) V has died and the services are provided to V’s personal representative.

General exclusions

- (4) Sub-paragraph (1) is subject to—
- (a) the exclusions in Part 2 of this Schedule, with the exception of paragraphs 1, 2, 3 and 8 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Definitions

- (5) In this paragraph—
- “birth” means the moment when an individual first has a life separate from his or her mother and references to an individual being born are to be interpreted accordingly;
 - “clinical negligence” means breach of a duty of care or trespass to the person committed in the course of the provision of clinical or medical services (including dental or nursing services);
 - “disabled” means physically or mentally disabled;
 - “personal representative”, in relation to an individual who has died, means—
 - (a) a person responsible for administering the individual’s estate under the law of England and Wales, Scotland or Northern Ireland, or
 - (b) a person who, under the law of another country or territory, has functions equivalent to those of administering the individual’s estate.

Special Immigration Appeals Commission

- 24 (1) Civil legal services provided in relation to proceedings before the Special Immigration Appeals Commission.

Exclusions

(2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Immigration: detention

- 25 (1) Civil legal services provided in relation to—
- (a) detention under the authority of an immigration officer;
 - (b) detention under Schedule 3 to the Immigration Act 1971;
 - (c) detention under section 62 of the Nationality, Immigration and Asylum Act 2002;
 - (d) detention under section 36 of the UK Borders Act 2007.

Exclusions

(2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Immigration: temporary admission

- 26 (1) Civil legal services provided in relation to temporary admission to the United Kingdom under—
- (a) paragraph 21 of Schedule 2 to the Immigration Act 1971;
 - (b) section 62 of the Nationality, Immigration and Asylum Act 2002.

Exclusions

(2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Immigration: residence etc restrictions

- 27 (1) Civil legal services provided in relation to restrictions imposed under—
- (a) paragraph 2(5) or 4 of Schedule 3 to the Immigration Act 1971 (residence etc restrictions pending deportation);
 - (b) section 71 of the Nationality, Immigration and Asylum Act 2002 (residence etc restrictions on asylum-seekers).

Exclusions

(2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Immigration: victims of domestic violence and indefinite leave to remain

- 28 (1) Civil legal services provided to an individual (“V”) in relation to an application by V for indefinite leave to remain in the United Kingdom on the grounds that—
- (a) V was given leave to enter or remain in the United Kingdom for a limited period as the partner of another individual present and settled in the United Kingdom, and
 - (b) V’s relationship with the other individual broke down permanently because V was the victim of domestic violence.

General exclusions

(2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Specific exclusion

- (3) The services described in sub-paragraph (1) do not include attendance at an interview conducted on behalf of the Secretary of State with a view to reaching a decision on an application.

Definitions

- (4) For the purposes of this paragraph, one individual is a partner of another if—

- (a) they are married to each other,
- (b) they are civil partners of each other, or
- (c) they are cohabitants.

- (5) In this paragraph—

“cohabitant” has the same meaning as in Part 4 of the Family Law Act 1996 (see section 62 of that Act);

“domestic violence” means any incident of threatening behaviour, violence or abuse (whether psychological, physical, sexual, financial or emotional) between individuals who are associated with each other (within the meaning of section 62 of the Family Law Act 1996);

“indefinite leave to remain in the United Kingdom” means leave to remain in the United Kingdom under the Immigration Act 1971 which is not limited as to duration;

“present and settled in the United Kingdom” has the same meaning as in the rules made under section 3(2) of the Immigration Act 1971.

Immigration: victims of domestic violence and residence cards

- 29 (1) Civil legal services provided to an individual (“V”) in relation to a residence card application where V—

- (a) has ceased to be a family member of a qualified person on the termination of the marriage or civil partnership of the qualified person,
- (b) is a family member who has retained the right of residence by virtue of satisfying the conditions in regulation 10(5) of the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003) (“the 2006 Regulations”), and
- (c) has satisfied the condition in regulation 10(5)(d)(iv) of the 2006 Regulations on the ground that V or a family member of V was the victim of domestic violence while the marriage or civil partnership of the qualified person was subsisting.

General exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Specific exclusion

- (3) The services described in sub-paragraph (1) do not include attendance at an interview conducted on behalf of the Secretary of State with a view to reaching a decision on an application.

Definitions

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

(4) In this paragraph—

“domestic violence” means any incident of threatening behaviour, violence or abuse (whether psychological, physical, sexual, financial or emotional) between individuals who are associated with each other (within the meaning of section 62 of the Family Law Act 1996);

“family member” has the same meaning as in the 2006 Regulations (see regulations 7 and 9);

“family member who has retained the right of residence” has the same meaning as in the 2006 Regulations (see regulation 10);

“qualified person” has the same meaning as in the 2006 Regulations (see regulation 6);

“residence card application” means—

- (a) an application for a residence card under regulation 17 of the 2006 Regulations, or
- (b) an application for a permanent residence card under regulation 18(2) of the 2006 Regulations.

Immigration: rights to enter and remain

- 30 (1) Civil legal services provided in relation to rights to enter, and to remain in, the United Kingdom arising from—
- (a) the Refugee Convention;
 - (b) Article 2 or 3 of the Human Rights Convention;
 - (c) the Temporary Protection Directive;
 - (d) the Qualification Directive.

General exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Specific exclusion

- (3) The services described in sub-paragraph (1) do not include attendance at an interview conducted on behalf of the Secretary of State with a view to reaching a decision on a claim in respect of the rights mentioned in that sub-paragraph, except where regulations provide otherwise.

Definitions

(4) In this paragraph—

“the Human Rights Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4 November 1950 as it has effect for the time being in relation to the United Kingdom;

“the Qualification Directive” means Council Directive [2004/83/EC](#) of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted;

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention;

“the Temporary Protection Directive” means Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

Immigration: accommodation for asylum-seekers etc

- 31 (1) Civil legal services provided in relation to the Secretary of State’s powers to provide, or arrange for the provision of, accommodation under—
- (a) section 4 or 95 of the Immigration and Asylum Act 1999 (accommodation for persons temporarily admitted and asylum-seekers);
 - (b) section 17 of the Nationality, Immigration and Asylum Act 2002 (support for destitute asylum-seekers).

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Victims of trafficking in human beings

- 32 (1) Civil legal services provided to an individual in relation to an application by the individual for leave to enter, or to remain in, the United Kingdom where—
- (a) there has been a conclusive determination that the individual is a victim of trafficking in human beings, or
 - (b) there are reasonable grounds to believe that the individual is such a victim and there has not been a conclusive determination that the individual is not such a victim.
- (2) Civil legal services provided in relation to a claim under employment law arising in connection with the exploitation of an individual who is a victim of trafficking in human beings, but only where—
- (a) the services are provided to the individual, or
 - (b) the individual has died and the services are provided to the individual’s personal representative.
- (3) Civil legal services provided in relation to a claim for damages arising in connection with the trafficking or exploitation of an individual who is a victim of trafficking in human beings, but only where—
- (a) the services are provided to the individual, or
 - (b) the individual has died and the services are provided to the individual’s personal representative.

Exclusions

- (4) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.
- (5) Sub-paragraphs (2) and (3) are subject to—
- (a) the exclusions in Part 2 of this Schedule, with the exception of paragraphs 1, 2, 3, 4, 5, 6 and 8 of that Part, and

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- (b) the exclusion in Part 3 of this Schedule.

Definitions

- (6) For the purposes of sub-paragraph (1)(b) there are reasonable grounds to believe that an individual is a victim of trafficking in human beings if a competent authority has determined for the purposes of Article 10 of the Trafficking Convention (identification of victims) that there are such grounds.
- (7) For the purposes of sub-paragraph (1) there is a conclusive determination that an individual is or is not a victim of trafficking in human beings when, on completion of the identification process required by Article 10 of the Trafficking Convention, a competent authority concludes that the individual is or is not such a victim.
- (8) In this paragraph—
- “competent authority” means a person who is a competent authority of the United Kingdom for the purposes of the Trafficking Convention;
 - “employment” means employment under a contract of employment or a contract personally to do work and references to “employers” and “employees” are to be interpreted accordingly;
 - “employment law” means an enactment or rule of law relating to employment, including in particular an enactment or rule of law conferring powers or imposing duties on employers, conferring rights on employees or otherwise regulating the relations between employers and employees;
 - “exploitation” means a form of exploitation described in section 4(4) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (trafficking people for exploitation);
 - “personal representative”, in relation to an individual who has died, means—
 - (a) a person responsible for administering the individual’s estate under the law of England and Wales, Scotland or Northern Ireland, or
 - (b) a person who, under the law of another country or territory, has functions equivalent to those of administering the individual’s estate;
 - “the Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16 May 2005);
 - “trafficking in human beings” has the same meaning as in the Trafficking Convention.

Loss of home

- 33 (1) Civil legal services provided to an individual in relation to—
- (a) court orders for sale or possession of the individual’s home, or
 - (b) the eviction from the individual’s home of the individual or others.
- (2) Civil legal services provided to an individual in relation to a bankruptcy order against the individual under Part 9 of the Insolvency Act 1986 where—
- (a) the individual’s estate includes the individual’s home, and
 - (b) the petition for the bankruptcy order is or was presented by a person other than the individual,
- including services provided in relation to a statutory demand under that Part of that Act.

General exclusions

- (3) Sub-paragraphs (1) and (2) are subject to the exclusions in Part 2 of this Schedule, with the exception of paragraph 14 of that Part.
- (4) But the exclusions described in sub-paragraph (3) are subject to the exceptions in sub-paragraphs (5) and (6).
- (5) The services described in sub-paragraph (1) include services provided in relation to proceedings on an application under the Trusts of Land and Appointment of Trustees Act 1996 to which section 335A of the Insolvency Act 1986 applies (application by trustee of bankrupt's estate).
- (6) The services described in sub-paragraph (1) include services described in any of paragraphs 3 to 6 or 8 of Part 2 of this Schedule to the extent that they are—
 - (a) services provided to an individual in relation to a counterclaim in proceedings for a court order for sale or possession of the individual's home, or
 - (b) services provided to an individual in relation to the unlawful eviction from the individual's home of the individual or others.
- (7) Sub-paragraphs (1) and (2) are subject to the exclusion in Part 3 of this Schedule.

Specific exclusion

- (8) The services described in sub-paragraph (1) do not include services provided in relation to—
 - (a) proceedings under the Matrimonial Causes Act 1973;
 - (b) proceedings under Chapters 2 and 3 of Part 2 of the Civil Partnership Act 2004 (dissolution, nullity and other proceedings and property and financial arrangements).

Definitions

- (9) In this paragraph “home”, in relation to an individual, means the house, caravan, houseboat or other vehicle or structure that is the individual's only or main residence, subject to sub-paragraph (10).
- (10) References in this paragraph to an individual's home do not include a vehicle or structure occupied by the individual if—
 - (a) there are no grounds on which it can be argued that the individual is occupying the vehicle or structure otherwise than as a trespasser, and
 - (b) there are no grounds on which it can be argued that the individual's occupation of the vehicle or structure began otherwise than as a trespasser.
- (11) In sub-paragraphs (9) and (10), the references to a caravan, houseboat or other vehicle include the land on which it is located or to which it is moored.
- (12) For the purposes of sub-paragraph (10) individuals occupying, or beginning occupation, of a vehicle or structure as a trespasser include individuals who do so by virtue of—
 - (a) title derived from a trespasser, or
 - (b) a licence or consent given by a trespasser or a person deriving title from a trespasser.

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

- (13) For the purposes of sub-paragraph (10) an individual who is occupying a vehicle or structure as a trespasser does not cease to be a trespasser by virtue of being allowed time to leave the vehicle or structure.

Homelessness

- 34 (1) Civil legal services provided to an individual who is homeless, or threatened with homelessness, in relation to the provision of accommodation and assistance for the individual under—
- (a) Part 6 of the Housing Act 1996 (allocation of housing accommodation);
 - (b) Part 7 of that Act (homelessness).

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Definitions

- (3) In this paragraph “homeless” and “threatened with homelessness” have the same meaning as in section 175 of the Housing Act 1996.

Risk to health or safety in rented home

- 35 (1) Civil legal services provided to an individual in relation to the removal or reduction of a serious risk of harm to the health or safety of the individual or a relevant member of the individual’s family where—
- (a) the risk arises from a deficiency in the individual’s home,
 - (b) the individual’s home is rented or leased from another person, and
 - (c) the services are provided with a view to securing that the other person makes arrangements to remove or reduce the risk.

Exclusions

- (2) Sub-paragraph (1) is subject to—
- (a) the exclusions in Part 2 of this Schedule, with the exception of paragraphs 6 and 8 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Definitions

- (3) For the purposes of this paragraph—
- (a) a child is a relevant member of an individual’s family if the individual is the child’s parent or has parental responsibility for the child;
 - (b) an adult (“A”) is a relevant member of an individual’s family if—
 - (i) they are relatives (whether of the full blood or half blood or by marriage or civil partnership) or cohabitants, and
 - (ii) the individual’s home is also A’s home.
- (4) In this paragraph—
- “adult” means a person aged 18 or over;
 - “building” includes part of a building;

“child” means a person under the age of 18;

“cohabitant” has the same meaning as in Part 4 of the Family Law Act 1996 (see section 62(1) of that Act);

“deficiency” means any deficiency, whether arising as a result of the construction of a building, an absence of maintenance or repair, or otherwise;

“harm” includes temporary harm;

“health” includes mental health;

“home”, in relation to an individual, means the house, caravan, houseboat or other vehicle or structure that is the individual’s only or main residence, together with any garden or ground usually occupied with it.

Anti-social behaviour

- 36 (1) Civil legal services provided to an individual in relation to—
- (a) an order made in respect of the individual under section 1B of the Crime and Disorder Act 1998 (“the 1998 Act”);
 - (b) an interim order made in respect of the individual under section 1D of the 1998 Act following an application under section 1B of that Act;
 - (c) an intervention order made in respect of the individual under section 1G of the 1998 Act in connection with an order under section 1B of that Act;
 - (d) an anti-social behaviour injunction against the individual under section 153A of the Housing Act 1996.

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Protection from harassment

- 37 (1) Civil legal services provided in relation to—
- (a) an injunction under section 3 or 3A of the Protection from Harassment Act 1997;
 - (b) the variation or discharge of a restraining order under section 5 or 5A of that Act.

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Gang-related violence

- 38 (1) Civil legal services provided in relation to injunctions under Part 4 of the Policing and Crime Act 2009 (injunctions to prevent gang-related violence).

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Sexual offences

- 39 (1) Civil legal services provided in relation to a sexual offence, but only where—
- (a) the services are provided to the victim of the offence, or

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- (b) the victim of the offence has died and the services are provided to the victim's personal representative.

Exclusions

- (2) Sub-paragraph (1) is subject to—
 - (a) the exclusions in Part 2 of this Schedule, with the exception of paragraphs 1, 2, 3, 8 and 12 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Definitions

- (3) In this paragraph—
 - “personal representative”, in relation to an individual who has died, means—
 - (a) a person responsible for administering the individual's estate under the law of England and Wales, Scotland or Northern Ireland, or
 - (b) a person who, under the law of another country or territory, has functions equivalent to those of administering the individual's estate;
 - “sexual offence” means—
 - (a) an offence under a provision of the Sexual Offences Act 2003 (“the 2003 Act”), and
 - (b) an offence under section 1 of the Protection of Children Act 1978 (“the 1978 Act”) (indecent photographs of children).
- (4) The references in sub-paragraph (1) to a sexual offence include—
 - (a) incitement to commit a sexual offence,
 - (b) an offence committed by a person under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to which a sexual offence is the offence which the person intended or believed would be committed,
 - (c) conspiracy to commit a sexual offence, and
 - (d) an attempt to commit a sexual offence.
- (5) In this paragraph references to a sexual offence include conduct which would be an offence under a provision of the 2003 Act or section 1 of the 1978 Act but for the fact that it took place before that provision or section came into force.
- (6) Conduct falls within the definition of a sexual offence for the purposes of this paragraph whether or not there have been criminal proceedings in relation to the conduct and whatever the outcome of any such proceedings.

Proceeds of crime

- 40 (1) Civil legal services provided in relation to—
 - (a) restraint orders under section 41 of the Proceeds of Crime Act 2002 (“the 2002 Act”) including orders under section 41(7) of that Act (orders for ensuring that restraint order is effective);
 - (b) orders under section 47M of the 2002 Act (detention of property);
 - (c) directions under section 54(3) of the 2002 Act (distribution of funds in the hands of a receiver);
 - (d) directions under section 62 of the 2002 Act (action to be taken by receiver);

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- (e) orders under section 67A of the 2002 Act (realising property), including directions under section 67D of that Act (distribution of proceeds of realisation);
- (f) orders under section 72 or 73 of the 2002 Act (compensation);
- (g) applications under section 351 of the 2002 Act (discharge or variation of a production order or order to grant entry);
- (h) applications under section 362 of the 2002 Act (discharge or variation of disclosure order);
- (i) applications under section 369 of the 2002 Act (discharge or variation of customer information order);
- (j) applications under section 375 of the 2002 Act (discharge or variation of account monitoring orders).

General exclusions

- (2) Sub-paragraph (1) is subject to—
 - (a) the exclusions in Part 2 of this Schedule, with the exception of paragraph 14 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Specific exclusions

- (3) Where a confiscation order has been made under Part 2 of the 2002 Act against a defendant, the services described in sub-paragraph (1) do not include services provided to the defendant in relation to—
 - (a) directions under section 54(3) of that Act (distribution of funds in the hands of a receiver), or
 - (b) directions under section 67D of that Act (distribution of proceeds of realisation),
 that relate to property recovered pursuant to the order.
- (4) Where a confiscation order has been made under Part 2 of the 2002 Act against a defendant and varied under section 29 of that Act, the services described in sub-paragraph (1) do not include services provided in relation to an application by the defendant under section 73 of that Act (compensation).

Inquests

- 41 (1) Civil legal services provided to an individual in relation to an inquest under the Coroners Act 1988 into the death of a member of the individual's family.

Exclusions

- (2) Sub-paragraph (1) is subject to—
 - (a) the exclusions in Part 2 of this Schedule, with the exception of paragraph 1 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Definitions

- (3) For the purposes of this paragraph 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.

Environmental pollution

- 42 (1) Civil legal services provided in relation to injunctions in respect of nuisance arising from prescribed types of pollution of the environment.

Exclusions

- (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

Equality

- 43 (1) Civil legal services provided in relation to contravention of the Equality Act 2010 or a previous discrimination enactment.

Exclusions

- (2) Sub-paragraph (1) is subject to—
- (a) the exclusions in Part 2 of this Schedule, with the exception of paragraph 15 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.

Definitions

- (3) In this paragraph “previous discrimination enactment” means—
- (a) the Equal Pay Act 1970;
 - (b) the Sex Discrimination Act 1975;
 - (c) the Race Relations Act 1976;
 - (d) the Disability Discrimination Act 1995;
 - (e) the Employment Equality (Religion or Belief) Regulations 2003 (S.I. 2003/1660);
 - (f) the Employment Equality (Sexual Orientation) Regulations 2003 (S.I. 2003/1661);
 - (g) the Equality Act 2006;
 - (h) the Employment Equality (Age) Regulations 2006 (S.I. 2006/1031);
 - (i) the Equality Act (Sexual Orientation) Regulations 2007 (S.I. 2007/1263).
- (4) The reference in sub-paragraph (1) to contravention of the Equality Act 2010 or a previous discrimination enactment includes—
- (a) breach of a term modified by, or included by virtue of, a provision that is an equality clause or equality rule for the purposes of the Equal Pay Act 1970 or the Equality Act 2010, and
 - (b) breach of a provision that is a non-discrimination rule for the purposes of the Equality Act 2010.

Cross-border disputes

- 44 (1) Civil legal services provided in relation to proceedings in circumstances in which the services are required to be provided under Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

No exclusions

- (2) Sub-paragraph (1) is not subject to the exclusions in Parts 2 and 3 of this Schedule.

Terrorism prevention and investigation measures etc

- 45 (1) Civil legal services provided to an individual in relation to a TPIM notice relating to the individual.
- (2) Civil legal services provided to an individual in relation to control order proceedings relating to the individual.

Exclusions

- (3) Sub-paragraphs (1) and (2) are subject to the exclusions in Parts 2 and 3 of this Schedule.
- (4) In this paragraph—

“control order proceedings” means proceedings described in paragraph 3(1)(a) to (e) of Schedule 8 to the Terrorism Prevention and Investigation Measures Act 2011 (“the 2011 Act”);

“TPIM notice” means a notice under section 2(1) of the 2011 Act.

Connected matters

- 46 (1) Prescribed civil legal services provided, in prescribed circumstances, in connection with the provision of services described in a preceding paragraph of this Part of this Schedule.

Exclusions

- (2) Sub-paragraph (1) is subject to—
- (a) the exclusions in Parts 2 and 3 of this Schedule, except to the extent that regulations under this paragraph provide otherwise, and
 - (b) any other prescribed exclusions.

PART 2

EXCLUDED SERVICES

The services described in Part 1 of this Schedule do not include the services listed in this Part of this Schedule, except to the extent that Part 1 of this Schedule provides otherwise.

- 1 Civil legal services provided in relation to personal injury or death.
- 2 Civil legal services provided in relation to a claim in tort in respect of negligence.

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

- 3 Civil legal services provided in relation to a claim in tort in respect of assault, battery or false imprisonment.
- 4 Civil legal services provided in relation to a claim in tort in respect of trespass to goods.
- 5 Civil legal services provided in relation to a claim in tort in respect of trespass to land.
- 6 Civil legal services provided in relation to damage to property.
- 7 Civil legal services provided in relation to defamation or malicious falsehood.
- 8 Civil legal services provided in relation to a claim in tort in respect of breach of statutory duty.
- 9 Civil legal services provided in relation to conveyancing.
- 10 Civil legal services provided in relation to the making of wills.
- 11 Civil legal services provided in relation to matters of trust law.
- 12 (1) Civil legal services provided in relation to a claim for damages in respect of a breach of Convention rights by a public authority to the extent that the claim is made in reliance on section 7 of the Human Rights Act 1998.
- (2) In this paragraph—
- “Convention rights” has the same meaning as in the Human Rights Act 1998;
- “public authority” has the same meaning as in section 6 of that Act.
- 13 Civil legal services provided in relation to matters of company or partnership law.
- 14 Civil legal services provided to an individual in relation to matters arising out of or in connection with—
- (a) a proposal by that individual to establish a business,
- (b) the carrying on of a business by that individual (whether or not the business is being carried on at the time the services are provided), or
- (c) the termination or transfer of a business that was being carried on by that individual.
- 15 (1) Civil legal services provided in relation to a benefit, allowance, payment, credit or pension under—
- (a) a social security enactment,
- (b) the Vaccine Damage Payments Act 1979, or
- (c) Part 4 of the Child Maintenance and Other Payments Act 2008.
- (2) In this paragraph “social security enactment” means—
- (a) the Social Security Contributions and Benefits Act 1992,
- (b) the Jobseekers Act 1995,
- (c) the State Pension Credit Act 2002,
- (d) the Tax Credits Act 2002,
- (e) the Welfare Reform Act 2007,
- (f) the Welfare Reform Act 2012, or
- (g) any other enactment relating to social security.

- 16 Civil legal services provided in relation to compensation under the Criminal Injuries Compensation Scheme.
- 17 Civil legal services provided in relation to changing an individual's name.

PART 3

ADVOCACY: EXCLUSION AND EXCEPTIONS

The services described in Part 1 of this Schedule do not include advocacy, except as follows—

- (a) those services include the types of advocacy listed in this Part of this Schedule, except to the extent that Part 1 of this Schedule provides otherwise;
- (b) those services include other types of advocacy to the extent that Part 1 of this Schedule so provides.

Exceptions: courts

- 1 Advocacy in proceedings in the Supreme Court.
- 2 Advocacy in proceedings in the Court of Appeal.
- 3 Advocacy in proceedings in the High Court.
- 4 Advocacy in proceedings in the Court of Protection to the extent that they concern—
- (a) a person's right to life,
 - (b) a person's liberty or physical safety,
 - (c) a person's medical treatment (within the meaning of the Mental Health Act 1983),
 - (d) a person's capacity to marry, to enter into a civil partnership or to enter into sexual relations, or
 - (e) a person's right to family life.
- 5 Advocacy in proceedings in a county court.
- 6 Advocacy in the following proceedings in the Crown Court—
- (a) proceedings for the variation or discharge of an order under section 5 or 5A of the Protection from Harassment Act 1997, and
 - (b) proceedings under the Proceeds of Crime Act 2002 in relation to matters listed in paragraph 40 of Part 1 of this Schedule.
- 7 Advocacy in a magistrates' court that falls within the description of civil legal services in any of paragraphs 1, 11 to 13 and 15 to 18 of Part 1 of this Schedule.
- 8 Advocacy in the following proceedings in a magistrates' court—
- (a) proceedings under section 47 of the National Assistance Act 1948,
 - (b) proceedings in relation to—
 - (i) bail under Schedule 2 to the Immigration Act 1971, or
 - (ii) arrest under Schedule 2 or 3 to that Act,
 - (c) proceedings for the variation or discharge of an order under section 5 or 5A of the Protection from Harassment Act 1997, and
 - (d) proceedings under the Proceeds of Crime Act 2002 in relation to matters listed in paragraph 40 of Part 1 of this Schedule.

Exceptions: tribunals

- 9 Advocacy in proceedings in the First-tier Tribunal under—
 - (a) the Mental Health Act 1983, or
 - (b) paragraph 5(2) of the Schedule to the Repatriation of Prisoners Act 1984.
- 10 Advocacy in proceedings in the Mental Health Review Tribunal for Wales.
- 11 Advocacy in proceedings in the First-tier Tribunal under—
 - (a) Schedule 2 to the Immigration Act 1971, or
 - (b) Part 5 of the Nationality, Immigration and Asylum Act 2002.
- 12 Advocacy in proceedings in the First-tier Tribunal under—
 - (a) section 40A of the British Nationality Act 1981, or
 - (b) regulation 26 of the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003),but only to the extent that the proceedings concern contravention of the Equality Act 2010.
- 13 Advocacy in the First-tier Tribunal that falls within the description of civil legal services in paragraph 28, 29 or 32(1) of Part 1 of this Schedule.
- 14 Advocacy in proceedings in the First-tier Tribunal under—
 - (a) section 4 or 4A of the Protection of Children Act 1999 (appeals and applications relating to list of barred from regulated activities with children or vulnerable adults),
 - (b) section 86 or 87 of the Care Standards Act 2000 (appeals and applications relating to list of persons unsuitable to work with vulnerable adults),
 - (c) section 32 of the Criminal Justice and Court Services Act 2000 (applications relating to disqualification orders), or
 - (d) section 144 of the Education Act 2002 (appeals and reviews relating to direction prohibiting person from teaching etc).
- 15 Advocacy in proceedings in the Upper Tribunal arising out of proceedings within any of paragraphs 9 to 14 of this Part of this Schedule.
- 16 Advocacy in proceedings in the Upper Tribunal under section 4 of the Safeguarding Vulnerable Groups Act 2006.
- 17 Advocacy in proceedings in the Upper Tribunal under section 11 of the Tribunals, Courts and Enforcement Act 2007 (appeals on a point of law) from decisions made by the First-tier Tribunal or the Special Educational Needs Tribunal for Wales in proceedings under—
 - (a) Part 4 of the Education Act 1996 (special educational needs), or
 - (b) the Equality Act 2010.
- 18 Advocacy in proceedings which are brought before the Upper Tribunal (wholly or primarily) to exercise its judicial review jurisdiction under section 15 of the Tribunals, Courts and Enforcement Act 2007.
- 19 Advocacy where judicial review applications are transferred to the Upper Tribunal from the High Court under section 31A of the Senior Courts Act 1981.
- 20 Advocacy in proceedings in the Employment Appeal Tribunal, but only to the extent that the proceedings concern contravention of the Equality Act 2010.

Other exceptions

- 21 Advocacy in proceedings in the Special Immigration Appeals Commission.
- 22 Advocacy in proceedings in the Proscribed Organisations Appeal Commission.
- 23 Advocacy in legal proceedings before any person to whom a case is referred (in whole or in part) in any proceedings within any other paragraph of this Part of this Schedule.
- 24 Advocacy in bail proceedings before any court which are related to proceedings within any other paragraph of this Part of this Schedule.
- 25 Advocacy in proceedings before any person for the enforcement of a decision in proceedings within any other paragraph of this Part of this Schedule.

PART 4

INTERPRETATION

- 1 For the purposes of this Part of this Act, civil legal services are described in Part 1 of this Schedule if they are described in one of the paragraphs of that Part (other than in an exclusion), even if they are (expressly or impliedly) excluded from another paragraph of that Part.
- 2 References in this Schedule to an Act or instrument, or a provision of an Act or instrument—
 - (a) are references to the Act, instrument or provision as amended from time to time, and
 - (b) include the Act, instrument or provision as applied by another Act or instrument (with or without modifications).
- 3 References in this Schedule to services provided in relation to an act, omission or other matter of a particular description (however expressed) include services provided in relation to an act, omission or other matter alleged to be of that description.
- 4 References in this Schedule to services provided in relation to proceedings, orders and other matters include services provided when such proceedings, orders and matters are contemplated.
- 5 (1) Where a paragraph of Part 1 or 2 of this Schedule describes services that consist of or include services provided in relation to proceedings, the description is to be treated as including, in particular—
 - (a) services provided in relation to related bail proceedings,
 - (b) services provided in relation to preliminary or incidental proceedings,
 - (c) services provided in relation to a related appeal or reference to a court, tribunal or other person, and
 - (d) services provided in relation to the enforcement of decisions in the proceedings.
- (2) Where a paragraph of Part 3 of this Schedule describes advocacy provided in relation to particular proceedings in or before a court, tribunal or other person, the description is to be treated as including services provided in relation to preliminary or incidental proceedings in or before the same court, tribunal or other person.

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

- (3) Regulations may make provision specifying whether proceedings are or are not to be regarded as preliminary or incidental for the purposes of this paragraph.
- 6 For the purposes of this Schedule, regulations may make provision about—
- (a) when services are provided in relation to a matter;
 - (b) when matters arise under a particular enactment;
 - (c) when proceedings are proceedings under a particular enactment;
 - (d) when proceedings are related to other proceedings.
- 7 In this Schedule “enactment” includes—
- (a) an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978), and
 - (b) an enactment contained in, or in an instrument made under, an Act or Measure of the National Assembly for Wales.