



Legal Aid, Sentencing and Punishment of Offenders Act 2012

2012 CHAPTER 10

PART 1

LEGAL AID

Criminal legal aid

13 Advice and assistance for individuals in custody

- (1) Initial advice and initial assistance are to be available under this Part to an individual who is arrested and held in custody at a police station or other premises if the Director has determined that the individual qualifies for such advice and assistance in accordance with this Part (and has not withdrawn the determination).
- (2) The Director must make a determination under this section having regard, in particular, to the interests of justice.
- (3) A determination under this section must specify the type of advice or assistance (or both) to be available under this Part.
- (4) Regulations may make provision about the making and withdrawal of determinations under this section.
- (5) Regulations under subsection (4) may, in particular, include—
 - (a) provision about the form and content of determinations and applications for determinations,
 - (b) provision permitting or requiring applications and determinations to be made and withdrawn in writing, by telephone or by other prescribed means,
 - (c) provision setting time limits for applications and determinations,
 - (d) provision for a determination to be disregarded for the purposes of this Part if made in response to an application that is made otherwise than in accordance with the regulations,

Status: Point in time view as at 08/03/2018.

Changes to legislation: *Legal Aid, Sentencing and Punishment of Offenders Act 2012, Section 13 is up to date with all changes known to be in force on or before 15 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (e) provision about conditions which must be satisfied by an applicant before a determination is made,
 - (f) provision about the circumstances in which a determination may or must be withdrawn,
 - (g) provision requiring information and documents to be provided, and
 - (h) provision requiring individuals who are the subject of a determination to be informed of the reasons for making or withdrawing the determination.
- (6) The circumstances prescribed under subsection (5)(f) may, in particular, relate to whether the individual who is the subject of the determination has complied with requirements imposed by or under this Part.
- (7) For the purposes of this section, in relation to an individual who is in custody—
“initial advice” means advice as to how the law in relation to a matter relevant to the individual's arrest applies in particular circumstances and as to the steps that might be taken having regard to how it applies;
“initial assistance” means assistance in taking any of those steps which the individual might reasonably take while in custody, including assistance in the form of advocacy.
- (8) The Lord Chancellor may by regulations provide that prescribed advice or assistance is not initial advice or initial assistance for the purposes of this section.

Modifications etc. (not altering text)

- C1** Ss. 13-20 applied (8.3.2018) by [The United Nations \(International Residual Mechanism for Criminal Tribunals\) Order 2018 \(S.I. 2018/187\)](#), arts. 1(1), **29(1)(b)** (with art. 3)

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