Legal Aid, Sentencing and Punishment of Offenders Act 2012

2012 CHAPTER 10

PART 1

LEGAL AID

Criminal legal aid

17 Qualifying for representation

(1) The relevant authority must determine whether an individual qualifies under this Part for representation for the purposes of criminal proceedings (whether provisionally or otherwise) in accordance with—

(a) section 21 (financial resources) and regulations under that section, and

(b) the interests of justice.

(2) In deciding what the interests of justice consist of for the purposes of such a determination, the following factors must be taken into account—

(a) whether, if any matter arising in the proceedings is decided against the individual, the individual would be likely to lose his or her liberty or livelihood or to suffer serious damage to his or her reputation,

(b) whether the determination of any matter arising in the proceedings may involve consideration of a substantial question of law,

(c) whether the individual may be unable to understand the proceedings or to state his or her own case,

(d) whether the proceedings may involve the tracing, interviewing or expert cross-examination of witnesses on behalf of the individual, and

(e) whether it is in the interests of another person that the individual be represented.

(3) The Lord Chancellor may by order amend subsection (2) by adding or varying a factor.

Changes to legislation: *Legal Aid, Sentencing and Punishment of Offenders Act 2012, Section 17 is up to date with all changes known to be in force on or before 05 October 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) View outstanding changes*

(4) Regulations may prescribe circumstances in which making representation available to an individual for the purposes of criminal proceedings is to be taken to be in the interests of justice for the purposes of a determination under section 16.

(5) In this section "the relevant authority", in relation to an individual and criminal proceedings, means the person who is authorised by or under section 18, 19 or 20 to determine (provisionally or otherwise) whether the individual qualifies under this Part for representation for the purposes of the proceedings.

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)

Changes to legislation:
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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2016/286, art. 4(1) by S.I. 2017/225 art. 2

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by S.I. 2018/1125 reg. 8 (This amendment not applied to legislation.gov.uk. S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 9(3)(4) inserted by 2022 c. 36 s. 25(2)
- s. 9A inserted by 2023 c. 32 s. 89(3)
- s. 9B inserted by 2023 c. 32 s. 90
- s. 10(3A)-(3E) inserted by 2022 c. 36 s. 67
- s. 128(3)(aza) inserted by 2024 c. 21 s. 60(2)(a)
- s. 128(3)(aaza) inserted by 2024 c. 21 s. 60(2)(b)
- s. 128(3A) inserted by 2024 c. 21 s. 60(3)
- s. 128(7) inserted by 2024 c. 21 s. 71
- Sch. 1 Pt. 1 para. 31ZA and cross-heading inserted by 2022 c. 36 s. 25(1)
- Sch. 1 Pt. 1 para. 31B and cross-heading inserted by 2022 c. 36 s. 57(2)
- Sch. 1 Pt. 1 para. 19(1A)(1B) and heading inserted by 2022 c. 36 s. 66(2)(a)
- Sch. 1 Pt. 1 para. 19(2A) inserted by 2022 c. 36 s. 66(2)(b)
- Sch. 1 Pt. 1 para. 19(8A) and heading inserted by 2022 c. 36 s. 66(2)(c)
- Sch. 1 Pt. 1 para. 25(1A) and heading inserted by 2022 c. 36 s. 66(3)(a)
- Sch. 1 Pt. 1 para. 26(1A) and heading inserted by 2022 c. 36 s. 66(3)(a)
- Sch. 1 Pt. 1 para. 27(1A) and heading inserted by 2022 c. 36 s. 66(3)(a)
- Sch. 1 Pt. 1 para. 27A(1A) and heading inserted by 2022 c. 36 s. 66(3)(a)
- Sch. 1 Pt. 1 para. 25(3)(4) and heading inserted by 2022 c. 36 s. 66(3)(b)
- Sch. 1 Pt. 1 para. 26(3)(4) and heading inserted by 2022 c. 36 s. 66(3)(b)
- Sch. 1 Pt. 1 para. 27(3)(4) and heading inserted by 2022 c. 36 s. 66(3)(b)
- Sch. 1 Pt. 1 para. 27A(3)(4) and heading inserted by 2022 c. 36 s. 66(3)(b)
- Sch. 1 Pt. 1 para. 30(1A) and heading inserted by 2022 c. 36 s. 66(4)(a)
- Sch. 1 Pt. 1 para. 30(2A) inserted by 2022 c. 36 s. 66(4)(b)
- Sch. 1 Pt. 1 para. 30(3A) and heading inserted by 2022 c. 36 s. 66(4)(c)
- Sch. 1 Pt. 1 para. 31A(2A) and heading inserted by 2022 c. 36 s. 66(5)(a)
- Sch. 1 Pt. 1 para. 31A(3A)(3B) and heading inserted by 2022 c. 36 s. 66(5)(b)
- Sch. 1 Pt. 1 para. 19(6A) inserted by 2023 c. 37 s. 56(2)(a)
- Sch. 1 Pt. 1 para. 31C inserted by 2023 c. 37 s. 56(3)
- Sch. 1 Pt. 1 para. 27A(1) inserted by S.I. 2017/617 reg. 3(4) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 11(1A) inserted by S.I. 2023/150 art. 4(3)(a)
- Sch. 1 Pt. 1 para. 11(3A) inserted by S.I. 2023/150 art. 4(3)(b)
- Sch. 1 Pt. 1 para. 2(1)(b) omitted by 2018 anaw 2 Sch. 1 para. 21(2)(a)(ii)
- Sch. 1 Pt. 1 para. 45(2) omitted by 2023 c. 32 s. 91(2)
- Sch. 1 Pt. 1 para. 45(3) substituted by 2023 c. 32 s. 91(3)

- Sch. 1 Pt. 1 para. 26(1) substituted by S.I. 2017/617 reg. 3(2)(b) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 27(1) substituted by S.I. 2017/617 reg. 3(3)(b) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 19(10) words inserted by 2023 c. 37 s. 56(2)(b)
- Sch. 1 Pt. 1 para. 31(1)(a) words inserted by S.I. 2023/147 art. 2(2)(a)
- Sch. 1 Pt. 1 para. 31(1)(a) words inserted by S.I. 2023/147 art. 2(2)(b)
- Sch. 1 Pt. 1 para. 31(1)(a) words omitted by 2016 c. 19 Sch. 11 para. 2(l)
- Sch. 1 Pt. 1 para. 45(4) words omitted by 2023 c. 32 s. 91(4)
- Sch. 1 Pt. 1 para. 26 heading words substituted by S.I. 2017/617 reg. 3(2)(a) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 27 heading words substituted by S.I. 2017/617 reg. 3(3)(a) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 16A inserted by 2023 c. 37 s. 56(4)
- Sch. 1 Pt. 3 para. 11(b) and word inserted by S.I. 2017/617 reg. 3(6)(b) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 8(b) omitted by S.I. 2017/617 reg. 3(5) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 11(a) and word omitted by S.I. 2017/617 reg. 3(6)(a) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 4 para. 8 inserted by 2022 c. 36 s. 66(6)