
DRAFT STATUTORY INSTRUMENTS

2014 No.

The Legal Aid, Sentencing and Punishment of Offenders
Act 2012 (Amendment of Schedule 1) Order 2014

PART 2

Amendment of Schedule 1 to the Legal Aid,
Sentencing and Punishment of Offenders Act 2012

Amendment of Part 1 of Schedule 1 to the Act

- 3.**—(1) Part 1 of Schedule 1 to the Act (services) is amended as follows.
- (2) In paragraphs 1 and 10, for sub-paragraph (3) (in each place) substitute—
- “**(3)** Sub-paragraphs (1) and (2) are subject to—
- (a) the exclusions in Part 2 of this Schedule, with the exception of paragraph 19 of that Part, and
- (b) the exclusion in Part 3 of this Schedule.”
- (3) In paragraph 3, after sub-paragraph (2) insert—
- “(2A) But paragraph 19 of Part 2 of this Schedule does not exclude from sub-paragraph (1) services provided in relation to abuse of an individual that took place at a time when the individual was a child.”
- (4) In paragraph 5, after sub-paragraph (2) insert—
- “(2A) But paragraph 19 of Part 2 of this Schedule does not exclude from sub-paragraph (1) services provided in relation to—
- (a) the discharge of a patient liable to be detained or recalled under—
- (i) the Mental Health Act 1983**(1)**, or
- (ii) paragraph 5(2) of the Schedule to the Repatriation of Prisoners Act 1984**(2)**,
or
- (b) deprivation of liberty authorised by—
- (i) section 4B of the Mental Capacity Act 2005**(3)** (deprivation of liberty necessary for life-sustaining treatment etc),
- (ii) an order under section 16(2)(a) of that Act (powers to make decisions about the personal welfare, property and affairs of a person lacking capacity), or
- (iii) Schedule A1 to that Act**(4)** (hospital and care home residents: deprivation of liberty).”

(1) 1983 c. 20.

(2) 1984 c. 47. Paragraph 5(2) was amended by S.I. 2008/2833.

(3) 2005 c. 9. Section 4B was inserted by section 50(1) and (2) of the Mental Health Act 2007 (c. 12).

(4) Schedule A1 was inserted by section 50(5) of, and Schedule 7 to, the Mental Health Act 2007 (c. 12).

- (5) In paragraph 6, after sub-paragraph (2) insert—
- “(2A) But paragraph 19 of Part 2 of this Schedule does not exclude from sub-paragraph (1) services provided in relation to community care services which a relevant person may provide or arrange to provide under the Children Act 1989(5).”
- (6) In paragraph 9, after sub-paragraph (2) insert—
- “(2A) But paragraph 19 of Part 2 of this Schedule does not exclude from sub-paragraph (1) services provided in relation to—
- (a) the inherent jurisdiction of the High Court in relation to children, or
- (b) deprivation of liberty in exercise of the inherent jurisdiction of the High Court in relation to vulnerable adults.”
- (7) In paragraph 11(3)(a), for “3 and 11” substitute “3, 11 and 19”.
- (8) In paragraphs 12(2) and 18(4)(a), for “paragraph 11” (in each place) substitute “paragraphs 11 and 19”.
- (9) In paragraphs 13, 15, 16, 17, 20, 24, 25, 26, 27, 28, 29 and 30, for sub-paragraph (2) (in each place) substitute—
- “(2) Sub-paragraph (1) is subject to—
- (a) the exclusions in Part 2 of this Schedule, with the exception of paragraph 19 of that Part, and
- (b) the exclusion in Part 3 of this Schedule.”
- (10) In paragraph 19—
- (a) after sub-paragraph (2) insert—
- “(2A) But paragraph 19 of Part 2 of this Schedule does not exclude from sub-paragraph (1) services provided in relation to—
- (a) judicial review in respect of the lawfulness of detention,
- (b) proceedings before the Special Immigration Appeals Commission,
- (c) 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, or
- (d) judicial review of certification under section 94(6) or 96(7) of the Nationality, Immigration and Asylum Act 2002 (certificate preventing or restricting appeal of immigration decision).”, and
- (b) for sub-paragraph (7) substitute—
- “(7) Sub-paragraphs (5) and (6) do not exclude services provided to an individual in relation to judicial review described in sub-paragraph (2A)(c) or (d).”
- (11) In paragraph 23(4)(a), for “3 and 8” substitute “3, 8 and 19”.
- (12) In paragraph 32—
- (a) for sub-paragraph (4) substitute—
- “(4) Sub-paragraph (1) is subject to—

(5) 1989 c. 41.

(6) Section 94 was amended by sections 27(1) to (7) and 47 of, and Schedule 4 to, the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19); section 47(8) of the Immigration, Asylum and Nationality Act 2006 (c. 13); S.I. 2003/970; S.I. 2003/1919; S.I. 2005/330; S.I. 2005/1016; S.I. 2005/3306; S.I. 2006/3215; S.I. 2006/3275; S.I. 2007/2221; S.I. 2007/3187; and S.I. 2010/561.

(7) Section 96 was amended by section 30 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19).

- (a) the exclusions in Part 2 of this Schedule, with the exception of paragraph 19 of that Part, and
 - (b) the exclusion in Part 3 of this Schedule.”, and
- (b) in sub-paragraph (5)(a) for “6 and 8” substitute “6, 8 and 19”.