

LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012

EXPLANATORY NOTES

COMMENTARY

Part 1: Legal Aid

Supplementary

Section 33: Restriction on disclosure of information about financial resources

226. *Section 33* provides for the protection of information obtained under the information gateway in section 22. It makes provision similar to the provision in paragraphs 6 to 8 of Schedule 3 to the Access to Justice Act 1999.
227. *Subsections (1) and (2)* provide that a person who receives information under section 22 or under this section may only disclose or use that information if it is necessary or expedient to do so in connection with determining financial eligibility for legal aid.
228. *Subsection (3)* qualifies *subsection (2)* by providing for limited circumstances in which the information may be used for purposes other than assessing financial eligibility. Disclosure is permitted if it would be in accordance with an enactment or in accordance with a court order, if it is for the purposes of the investigation or prosecution of an offence or suspected offence or if it is for the purposes of proceedings before a court, including instituting such proceedings. Disclosure is also permitted if the information has already been lawfully disclosed to the public.
229. *Subsection (4)* provides that disclosure or use of information contrary to this section is a criminal offence and specifies the maximum penalties. The penalty for the offence on conviction on indictment will be imprisonment for a term not exceeding two years or a fine (or both). The penalty for the offence on summary conviction, in England and Wales, will be imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (currently £5,000) (or both) and, in Northern Ireland, will be imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both). *Subsection (7)* provides in relation to the summary penalty in England and Wales that for an offence committed before the commencement of section 154(1) of the 1991 Act the reference in *subsection (4)(b)(i)* to 12 months has effect as if it were a reference to 6 months.
230. *Subsection (5)* provides a statutory defence to the criminal offence detailed in *subsection (4)* where the person charged with the offence reasonably believed that the disclosure or use was lawful.