

# LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY

#### Part 1: Legal Aid

#### Supplementary

#### *Section 35: Exceptions from restriction under section 34*

237. *Section 35* provides for exceptions to the bar on disclosure in *subsection (2)* of section 34.
238. *Subsection (1)* provides for a general exception relating to the disclosure of information for the purpose of enabling or assisting the Lord Chancellor or the Secretary of State for Justice in carrying out their functions. It is not limited to functions created by statute. This subsection also provides for similar exceptions where the Director or a court, tribunal or other person is carrying out functions under Part 1 of the Act, as well as in connection with any proceedings involving services delivered under Part 1.
239. *Subsection (2)* provides for an exception relating to disclosure of information where disclosure would be in accordance with the law of England and Wales, as well as when ordered by a court or for the purposes of court proceedings. This subsection also creates an exception relating to disclosure of information for the purposes of proceedings before a court, including instituting such proceedings, for the purpose of a criminal investigation and for the purpose of allowing a tribunal to properly exercise its disciplinary functions. This subsection also provides an exception where information has previously been lawfully disclosed to the public.
240. *Subsection (3)* provides two further exceptions to the restriction on disclosure. The first exception is where information is to be released in a form in which information pertaining to the individual cannot be identified. The second exception is where the information requested relates to any grant, loan or other payment made by the Lord Chancellor pursuant to functions under Part 1 of the Act.
241. *Subsection (4)* provides an exception where an individual consents to the release of information pertaining to them. *Subsection (4)* also provides that if the information was provided by someone other than the individual to whom it relates the person who provided the information must also consent to its disclosure.
242. *Subsections (5) and (6)* ensure that disclosure of information covered by section 33 is not prevented by that section, provided that the restricted period of 100 years has passed, that disclosure is made by a person who is a public authority for the purposes of the Freedom of Information Act 2000, and that the information is not held on behalf of another person.