



Legal Aid, Sentencing and Punishment of Offenders Act 2012

2012 CHAPTER 10

PART 1

LEGAL AID

Financial resources

21 Financial resources

- (1) A person may not make a relevant determination that an individual qualifies under this Part for services unless the person has determined that the individual's financial resources are such that the individual is eligible for the services (and has not withdrawn the determination).
- (2) Regulations may—
 - (a) make provision about when an individual's financial resources are such that the individual is eligible under this Part for services, and
 - (b) make provision for exceptions from subsection (1).
- (3) Regulations may provide that an individual is to be treated, for the purposes of regulations under subsection (2), as having or not having financial resources of a prescribed description.
- (4) Regulations under subsection (3) may, in particular, provide that the individual is to be treated as having prescribed financial resources of a person of a prescribed description.
- (5) Regulations may make provision about the making and withdrawal of determinations under this section.
- (6) Regulations under subsection (5) may, in particular, include—
 - (a) provision about the form and content of determinations,

- (b) provision permitting or requiring determinations to be made and withdrawn in writing, by telephone or by other prescribed means,
 - (c) provision setting time limits for determinations,
 - (d) provision about conditions which must be satisfied before a determination is made,
 - (e) provision about the circumstances in which a determination may or must be withdrawn,
 - (f) provision requiring information and documents to be provided,
 - (g) provision requiring individuals who are the subject of a determination to be informed of the reasons for making or withdrawing the determination, and
 - (h) provision for the review of a determination in respect of an individual's financial resources.
- (7) The circumstances prescribed under subsection (6)(e) 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.
- (8) In this section “relevant determination” means a determination that is required to be carried out in accordance with this section by—
- (a) section 11 or 17, or
 - (b) regulations under section 15 or paragraph 4 of Schedule 3.

22 Information about financial resources

- (1) The relevant authority may make an information request to—
- (a) the Secretary of State,
 - (b) a relevant Northern Ireland Department, or
 - (c) the Commissioners for Her Majesty's Revenue and Customs (“the Commissioners”).
- (2) An information request may be made only for the purposes of facilitating a determination about an individual's financial resources for the purposes of this Part.
- (3) An information request made to the Secretary of State or a relevant Northern Ireland Department under this section may request the disclosure of some or all of the following information—
- (a) a relevant individual's full name and any previous names;
 - (b) a relevant individual's address and any previous addresses;
 - (c) a relevant individual's date of birth;
 - (d) a relevant individual's national insurance number;
 - (e) a relevant individual's benefit status at a time specified in the request;
 - (f) information of a prescribed description.
- (4) An information request made to the Commissioners under this section may request the disclosure of some or all of the following information—
- (a) whether or not a relevant individual is employed or was employed at a time specified in the request;
 - (b) the name and address of the employer;
 - (c) whether or not a relevant individual is carrying on a business, trade or profession or was doing so at a time specified in the request;
 - (d) the name under which it is or was carried on;

- (e) the address of any premises used for the purposes of carrying it on;
 - (f) a relevant individual's national insurance number;
 - (g) a relevant individual's benefit status at a time specified in the request;
 - (h) information of a prescribed description.
- (5) The information that may be prescribed under subsections (3)(f) and (4)(h) includes, in particular, information relating to—
- (a) prescribed income of a relevant individual for a prescribed period, and
 - (b) prescribed capital of a relevant individual.
- (6) Information may not be prescribed under subsection (4)(h) without the Commissioners' consent.
- (7) The Secretary of State, the relevant Northern Ireland Departments and the Commissioners may disclose to the relevant authority information specified in an information request made under this section.
- (8) In this section—
- “benefit status”, in relation to an individual, means whether or not the individual is in receipt of a prescribed benefit or benefits and, if so—
- (a) which benefit or benefits the individual is receiving,
 - (b) whether the individual is entitled to the benefit or benefits alone or jointly,
 - (c) in prescribed cases, the amount the individual is receiving by way of the benefit (or each of the benefits) (“the benefit amount”), and
 - (d) in prescribed cases, where the benefit consists of a number of elements, what those elements are and the amount included in respect of each element in calculating the benefit amount;
- “the relevant authority” means—
- (a) a prescribed person, or
 - (b) in relation to circumstances for which no person is prescribed, the Director;
- “a relevant individual”, in relation to an information request for the purposes of a determination about an individual's financial resources, means—
- (a) that individual, and
 - (b) any other individual whose financial resources are or may be relevant for the purposes of the determination;
- “relevant Northern Ireland Department” means the Department for Social Development in Northern Ireland or the Department of Finance and Personnel in Northern Ireland.