Draft Order laid before Parliament under section 41(6) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2022 No. ***

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Civil Legal Aid (Housing and Asylum Accommodation) Order 2022

Made - - - - ***

Coming into force in accordance with article 1(2)

The Lord Chancellor makes this Order in exercise of the powers conferred by sections 2(3), 9(2) and 41(1), (2) and (3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(**a**).

A draft of this Order was laid before Parliament in accordance with section 41(6) of that Act and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Civil Legal Aid (Housing and Asylum Accommodation) Order 2022.

(2) Paragraph (2) of article 2 comes into force immediately after section 95A of the Immigration and Asylum Act 1999(**b**) comes into force and all other articles come into force on 1st August 2023.

(3) This Order extends to England and Wales.

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

2.—(1) Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services) is amended as follows.

(2) In paragraph 31 (immigration: accommodation for asylum-seekers etc.), in sub-paragraph (1)(a)—

(a) after "95", insert "or 95A";

(b) after "asylum-seekers", insert "and failed asylum-seekers".

(3) In paragraph 33 (loss of home)—

(a) after sub-paragraph (1) insert—

"(1A) Civil legal services provided to an individual, where the Director has determined the individual qualifies for any services described in sub-paragraph (1) (and has not withdrawn the determination), in relation to—

(**a**) 2012 c. 10.
(**b**) 1999 c. 33.

(a) housing matters;

(b) debt;

(c) a benefit, allowance, payment, credit or pension under—

(i) a social security enactment;

(ii) the Vaccine Damage Payments Act 1979(**a**);

(iii) Part 4 of the Child Maintenance and Other Payments Act 2008(**b**);

(d) a council tax reduction scheme.",

(b) after sub-paragraph (7) insert—

"(7A) Sub-paragraph (1A) is subject to the exclusions in Part 2 of this Schedule, with the exception of paragraphs 14 and 15 of that Part.";

(c) after sub-paragraph (8) insert—

"(8A) The services described in sub-paragraph (1A) do not include advocacy.";

(d) for sub-paragraph (9), substitute—

"(9) In this paragraph—

"council tax reduction scheme" has the meaning given in paragraph 8A(4);

"home", in relation to an individual, means the house, caravan, houseboat or other vehicle or structure that is the individual's only or main residence, subject to sub-paragraph (10);

"housing matters" means matters which concern—

(i) the possession of, status of, terms of occupation, repair of, improvement of, quiet enjoyment of, or payment of rent or other charges for, an individual's home;

(ii) the rights of leaseholders under the terms of their lease or under any statutory provision ;

(iii) the allocation and transfer of housing and the provision of sites for occupation,

but does not include disputes relating to any boundary of a property;

"social security enactment" has the meaning given in paragraph 8(3)."

Amendment of the Civil Legal Aid (Remuneration) Regulations 2013

3.—(1) Part 1 of Schedule 1 to the Civil Legal Aid (Remuneration) Regulations 2013(**c**) is amended as follows.

(2) For paragraph 2, substitute—

"(2) The fees in Table 1 for Housing do not apply to the Housing Possession Court Duty Scheme or the Housing Loss Prevention Advice Service. The fees for those schemes are contained in Tables 6 and 6(a) in this Part."

(3) After Table 6, insert—

"**Table 6(a)**

Housing Loss Prevention Advice Service (HLPAS)

Activity	*Standard Fee*	*Escape Fee Threshold*
HLPAS Stage One: early legal advice	£157	£471

(**a**) 1979 c. 17.
(**b**) 2008 c. 6.
(**c**) S.I. 2013/422, as amended by 2015/898. There are other amendments which are not relevant to this Order.

HLPAS Stage Two: in-court duty scheme	£75.60 (London rate) £71.55 (Non-London rate).	N/A”

Amendment of the Civil Legal Aid (Procedure) Regulations 2012

4. Regulation 14 of the Civil Legal Aid (Procedure) Regulations 2012(**a**) is amended as follows—

(a) in paragraph (a), omit “or”;

(b) in paragraph (b), omit the full stop;

(c) after paragraph (b), insert—

“; or

(c) legal help or help at court provided under paragraph 33(1) or (1A) of Schedule 1 to the Act to an individual who has a hearing which has been listed at a court in relation to the possession of that individual’s home.”.

Name
Lord Chancellor
Ministry of Justice

Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (“LASPO”) in relation to advice and assistance related to accommodation for asylum-seekers and failed asylum-seekers to reflect prospective changes to the Immigration and Asylum Act 1999.

This Order also amends Schedule 1 to LASPO to provide for advice and assistance in relation to certain housing, debt, and welfare benefits issues where someone has already been determined to be eligible for legal aid in relation to a loss of home.

The Order also amends the Civil Legal Aid (Remuneration) Regulations 2013, which provide for the payment of remuneration to the providers of civil legal services, to specify the fees for the provision of these legal services.

The Order also amends the Civil Legal Aid (Procedure) Regulations 2012, which provide for the procedure for the making and withdrawal of determinations that an individual qualifies for civil legal aid.

An impact assessment on the effect that this Order will have on the costs of business and the voluntary sector is available from the Legal Aid Policy Team, Access to Justice Directorate, Justice and Courts Policy Group, Ministry of Justice, 102 Petty France, London SW1H 9AJ. The impact assessment is annexed to the Explanatory Memorandum which is available alongside this Order on the UK legislation website at http://www.legislation.gov.uk.

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(**a**) S.I. 2012/3098. There are amendments which are not relevant to this Order.

£4.90

http://www.legislation.gov.uk/id/ukdsi/2022/9780348239737

ISBN 978-0-34-823973-7

