Draft Order laid before Parliament under section 41(6) and (7)(a) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2025 No.

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Legal Aid: Domestic Abuse) (Miscellaneous Amendments) Order 2025

Made - - - - ***

Coming into force in accordance with article 1(1)

The Lord Chancellor makes this Order in exercise of the powers conferred by sections 9(2), 12(2) and (3)(e) and (g), 14(h) and 41(1)(a) and (b), (2)(a) and (b) and (3)(b) and (c) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ("the Act")(**a**).

A draft of this Order has been laid before and approved by a resolution of each House of Parliament in accordance with section 41(6) and (7)(a) of the Act.

PART 1

General

Citation, commencement and extent

1.—(1) This Order may be cited as the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Legal Aid: Domestic Abuse) (Miscellaneous Amendments) Order 2025 and comes into force on the day after the day on which it is made.

(2) This Order extends to England and Wales.

(**a**) 2012 c. 10; the relevant amending instruments are S.I. 2013/748, 2023/150 and 2024/715.

PART 2

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

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

2. Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services) is amended in accordance with articles 3 and 4.

Amendments relating to domestic abuse and immigration

3.—(1) Part 1 (services) is amended as follows.

(2) In the heading of paragraph 11, for "domestic violence" substitute "domestic abuse".

(3) In paragraph 12—

(a) in the heading and in sub-paragraphs (1)(a) and (b) and (6), for "domestic violence" substitute "domestic abuse";

(b) in sub-paragraph (9), for the definition of "domestic violence" substitute—

> ""domestic abuse" means any incident, or pattern of incidents, of controlling, coercive or threatening behaviour, violence or abuse (whether psychological, physical, sexual, economic or emotional) between individuals who are associated with each other; and for these purposes, such behaviour, violence or abuse between individuals may consist of or include behaviour, violence or abuse directed at another individual;".

(4) In paragraph 28—

(a) for the heading substitute "Immigration: victims of domestic abuse, leave to enter and indefinite leave to remain";

(b) for sub-paragraph (1) substitute—

> "(1) Civil legal services provided to an individual in relation to an application for leave to enter or indefinite leave to remain in the United Kingdom in reliance on Appendix Victim of Domestic Abuse to the immigration rules(**a**).";

(c) omit sub-paragraph (4);

(d) in sub-paragraph (5)—

(i) omit the definitions of "cohabitant" and "domestic violence";

(ii) before the definition of "indefinite leave to remain in the United Kingdom" insert—

> ""immigration rules" has the same meaning as in the Immigration Act 1971(**b**);";

(iii) after the definition of "indefinite leave to remain in the United Kingdom" insert—

> ""leave to enter" is to be construed in accordance with the Immigration Act 1971(**c**);";

(**a**) https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-victim-of-domestic-abuse as at 26 November 2024.
(**b**) 1971 c. 77.
(**c**) See, in particular, section 3 of that Act.

(iv) omit the definition of "present and settled in the United Kingdom".

(5) In paragraph 29—

(a) in the heading and in sub-paragraph (1)(c), for "domestic violence" substitute "domestic abuse";

(b) in sub-paragraph (4), for the definition of "domestic violence" substitute—

> ""domestic abuse" means any incident, or pattern of incidents, of controlling, coercive or threatening behaviour, violence or abuse (whether psychological, physical, sexual, economic or emotional) between individuals who are associated with each other; and for these purposes, such behaviour, violence or abuse between individuals may consist of or include behaviour, violence or abuse directed at another individual;".

Amendments relating to domestic abuse protection notices and orders

4.—(1) In Part 1 (services), paragraph 11 (family homes and domestic violence) is amended in accordance with paragraphs (2) and (3).

(2) In sub-paragraph (1A)—

(a) in the words before paragraph (a), after "relation to" insert "the following applications or proceedings under the Domestic Abuse Act 2021";

(b) in paragraph (a)—

(i) omit "for a domestic abuse protection order" and "of the Domestic Abuse Act 2021";

(ii) after "28" insert "(domestic abuse protection orders on application)";

(c) in paragraph (b), for "of that Act" substitute "(domestic abuse protection orders on family or civil court's own motion)";

(d) after paragraph (b) insert—

> "(ba) proceedings under section 31(3), (5) or (6) (domestic abuse protection orders on criminal court's own motion) so far as those proceedings relate to a domestic abuse protection order;
>
> (bb) proceedings under section 40 (arrest for breach of an order);";

(e) for paragraph (c) substitute—

> "(bc) proceedings under section 44(2)(b) (variation and discharge of orders on court's own motion) in a case where the court hearing the proceedings could make a domestic abuse protection order under section 31(3), (5) or (6), so far as those proceedings relate to a domestic abuse protection order;
>
> (c) proceedings under section 44 (variation and discharge of orders) not within paragraph (bc);
>
> (d) proceedings on an appeal under section 46(1) (appeal of decision on application for domestic abuse protection order under section 28);
>
> (e) proceedings on an appeal under section 46(3) or (4) (appeal by person subject to an order against its making or variation on criminal court's own motion);
>
> (f) proceedings on an appeal under section 46(5) (other appeals against order varying or discharging a domestic abuse protection order);
>
> (g) proceedings for contempt of court in relation to a domestic abuse protection order.".

(3) For sub-paragraph (3A) substitute—

"(3A) Sub-paragraph (1A) is subject to the exclusions in Part 2 of this Schedule.

(3B) The following services do not include advocacy of any type—

(a) services described in sub-paragraph (1A)(a) in so far as the services are provided—

(i) in relation to an application made by a chief officer of police for a domestic abuse protection order, and

(ii) for an individual other than the person against whom the order is being sought;

(b) services described in sub-paragraph (ba), (bc) or (e).

(3C) Any services described in sub-paragraph (1A) that are not within sub-paragraph (3B) are subject to the exclusion in Part 3 of this Schedule.".

(4) In Part 3 (advocacy: exclusion and exceptions)—

(a) in paragraph 6—

(i) after sub-paragraph (e), but before the "and" at the end of it, insert—

"(ea) proceedings in relation to an application for the variation or discharge of a domestic abuse protection order under section 44(2)(a) of the Domestic Abuse Act 2021,";

(ii) in sub-paragraph (f), for "the Domestic Abuse Act 2021" substitute "that Act";

(b) in paragraph 7, for sub-paragraph (ba) substitute—

"(ba) paragraph 11(1A)(a) and, in so far as the proceedings relate to an application to vary or discharge a domestic abuse protection order, paragraph 11(1A)(c), and".

PART 3

Amendments to civil legal aid regulations

Amendments to the Civil Legal Aid (Procedure) Regulations 2012

5.—(1) In each of the following provisions of the Civil Legal Aid (Procedure) Regulations 2012(**a**), for "domestic violence" substitute "domestic abuse" in each place it occurs—

(a) regulation 2, paragraphs (d) and (e) of the definition of "family dispute";

(b) regulation 23(2);

(c) the heading of regulation 33;

(d) regulation 33(1) and (2);

(e) regulation 42(1)(k)(v), and (vi)(a) and (b);

(f) the heading of Schedule 1;

(g) Schedule 1, paragraphs 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 16(a) and (c), 17(1),(2)(c) and (3)(a), 18, 19, 20, 21 and 22.

(2) In Schedule 1—

(a) in paragraph 20 after "granted" insert "leave to enter or";

(b) in paragraph 21, for "financial" substitute "economic";

(**a**) S.I. 2012/3098; the relevant amending instruments are S.I. 2017/1237 and S.I. 2020/439.

(c) in paragraph 22, in the definition of "appropriate health professional"—

(i) at the end of sub-paragraph (b) omit "or";

(ii) at the end of sub-paragraph (c) insert "or";

(iii) after sub-paragraph (c) insert—

"(d) a medical practitioner, nurse, midwife, dental practitioner, paramedic, practitioner psychologist, radiographer or social worker registered and licensed to practise in the country in which they provide a letter or report, or examine A under this Schedule;".

Amendments to the Civil Legal Aid (Merits Criteria) Regulations 2013

6. In each of the following provisions of the Civil Legal Aid (Merits Criteria) Regulations 2013(**a**), for "domestic violence", substitute "domestic abuse" in each place it occurs—

(a) in regulation 2—

(i) the definition of "domestic violence case";

(ii) paragraphs (d) and (e) of the definition of "family dispute";

(iii) paragraph (b) of the definition of "private law children case";

(b) the heading of regulation 25;

(c) regulation 25;

(d) the heading of regulation 27;

(e) regulation 27;

(f) regulation 64(2)(a);

(g) the heading of regulation 67;

(h) regulation 67;

(i) regulation 69(4)(a) and (b).

Amendments to the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013

7. In each of the following provisions of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013(**b**), for "domestic violence" substitute "domestic abuse" in each place it occurs—

(a) the heading of regulation 12;

(b) regulation 12(1);

(c) regulation 39(3)(d)(i) and (ii) and (5).

Amendment to the Civil Legal Aid (Costs) Regulations 2013

8. In regulation 2(1) of the Civil Legal Aid (Costs) Regulations 2013(**c**), in the definition of "family proceedings" in sub-paragraph (a), for "domestic violence" substitute "domestic abuse".

(**a**) S.I. 2013/104; the relevant amending instruments are S.I. 2015/1571 and S.I. 2016/781.
(**b**) S.I. 2013/480; the relevant amending instrument is S.I. 2024/1074.
(**c**) S.I. 2013/611.

Amendments to the Civil Legal Aid (Statutory Charge) Regulations 2013

9. In regulation 2(1) of the Civil Legal Aid (Statutory Charge) Regulations 2013(**a**) in the definition of "family proceedings" in sub-paragraph (a)(iv) and (v), for "domestic violence" substitute "domestic abuse".

PART 4

Amendments to criminal legal aid regulations

Amendments to the Criminal Legal Aid (General) Regulations 2013

10.—(1) In the Criminal Legal Aid (General) Regulations 2013(**b**), regulation 9 (criminal proceedings) is amended in accordance with paragraphs (2) to (4).

(2) In paragraph (ue), omit "(a)".

(3) In paragraph (uf), after "those sections" insert "and related appeals under section 46(3) or (4) of the Act".

(4) After paragraph (uf) insert—

> "(ufa) proceedings under section 44(2)(b) of the Domestic Abuse Act 2021, in relation to the variation or discharge of a domestic abuse protection order in a case where that court could make a domestic abuse protection order under section 31(3), (5) or (6), and related appeals under section 46(4) of that Act;".

Saving provision in relation to article 10(2)

11. Article 10(2) does not apply to a hearing under section 26(2)(b) of the Domestic Abuse Act 2021 in circumstances where, before this Order has come into force—

(a) the applicant for legal aid has been arrested for the alleged breach of a domestic abuse protection notice, and

(b) civil legal services have been made available to that person in relation to the application for a domestic abuse protection order referred to in the domestic abuse protection notice.

Signed by authority of the Lord Chancellor

Name
Minister of State
Ministry of Justice

(**a**) S.I. 2013/503.
(**b**) S.I. 2013/9; the relevant amending instrument is S.I. 2023/150.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) ("the Act") and secondary legislation under the Act in relation to the provision of legal aid for certain cases involving domestic abuse.

Part 2 of the Order comprises articles 2 to 4 and sets out amendments to Parts 1 (services) and 3 (advocacy: exclusion and exceptions) of Schedule 1 to the Act. Article 3(4) amends paragraph 28 of Part 1 of Schedule 1 to the Act to make legal aid available to victims of domestic abuse who apply for leave to enter or remain in the UK under Appendix Victim of Domestic Abuse to the immigration rules. Article 3 also replaces references to "domestic violence" with references to "domestic abuse". Domestic abuse is a broader concept. It includes "economic abuse" instead of "financial abuse" and expressly includes abuse that can be directed towards another individual, in line with the Domestic Abuse Act 2021 (c. 17) ("DA Act").

Article 4 amends Parts 1 and 3 of Schedule 1 to the Act, to put further services relating to Part 3 of the DA Act (powers for dealing with domestic abuse) in scope of civil legal aid.

Article 4(2) amends sub-paragraph (1A) of paragraph 11 of Part 1 of Schedule 1 to the Act. Article 4(3) inserts new sub-paragraphs (3A) to (3C) into paragraph 11. The effect is that legal aid is available for victims, or relevant third parties, subject to eligibility tests, where a domestic abuse protection order is made, varied or discharged within existing criminal proceedings and where there is a related appeal under section 46(3) or (4) of the DA Act. Provision is made for legal aid to be available to victims and relevant third parties in relation to civil enforcement of a breach of a domestic abuse protection order, by inserting paragraphs (bb) and (g) into paragraph 11(1A). Finally, article 4(2) inserts a new paragraph (c) into paragraph 11(1A). Paragraph (c) makes provision for civil legal aid for parties to family or civil proceedings, in relation to a hearing to vary or discharge a domestic abuse protection order, where the matter is raised by the court of its own motion.

Article 4(4) makes provision for legal aid in respect of the legal representation of a victim or relevant third party in relation to an application to the Crown Court or to the magistrates' court to vary or discharge a domestic abuse protection order.

Part 3, comprising articles 5 to 9, amends secondary legislation relating to eligibility for legal aid. Article 5 amends the Civil Legal Aid (Procedure) Regulations 2012, to substitute references to "domestic violence" and "financial" abuse for references to "domestic abuse" and "economic" abuse respectively. Further, the definition of "appropriate health professional" in paragraph 22 of Schedule 1 to those Regulations is amended to include the persons mentioned in new sub-paragraph (d) with the effect that such persons may provide evidence of domestic abuse as specified for the purpose of a legal aid application.

Articles 6 to 8 amend other secondary legislation to substitute references to "domestic violence" for references to "domestic abuse" to align terminology with the DA Act.

Article 10 amends the Criminal Legal Aid (General) Regulations 2013 (S.I. 2013/9; the relevant amending instrument is S.I. 2023/150). It prescribes certain proceedings under Part 3 of the DA Act as "criminal proceedings" for the purposes of Part 1 of the Act.

Where the circumstances specified in article 11 occur, the article has the effect of disapplying article 10(2). This disapplication would result in civil, not criminal, legal aid being available to a person arrested and brought before the magistrates' court following arrest, for a breach of a domestic abuse protection notice, under section 26(2)(b) of the DA Act.

An impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is included in the assessment published with the explanatory memorandum alongside this instrument (on www.legislation.gov.uk). The impact assessment does not cover the amendments in relation to domestic abuse protection notices and domestic abuse protection orders as their impact on the cost to business and the voluntary sector and community bodies was included in the assessment published with an explanatory memorandum alongside the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Legal Aid: Family and Domestic Abuse) (Miscellaneous Amendments) Order 2023 (S.I. 2023/150) on https://www.legislation.gov.uk/uksi/2023/150/impacts.

© Crown Copyright 2025

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, Controller of His Majesty's Stationery Office and King's Printer of Acts of Parliament.

ISBN 978-0-34-827022-8

£8.14

http://www.legislation.gov.uk/id/ukdsi/2025/9780348270228

9 780348 270228