

SCHEDULES

SCHEDULE 5

LEGAL AID: CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS

Public Records Act 1958 (c. 51)

- 1 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 1 of the Table at the end of paragraph 3, in the second column omit “Legal Services Commission.”

Parliamentary Commissioner Act 1967 (c. 13)

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation) omit “Legal Services Commission.”

Criminal Appeal Act 1968 (c. 19)

- 3 In section 50 of the Criminal Appeal Act 1968 (meaning of “sentence”), in subsection (3) for “under section 17 of the Access to Justice Act 1999” substitute “relating to a requirement to make a payment under regulations under section 23 or 24 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

Children and Young Persons Act 1969 (c. 54)

- 4 (1) Section 23(5A) of the Children and Young Persons Act 1969 (restrictions on imposing security requirement on child or young person who is not legally represented) is amended as follows.
 - (2) In paragraph (a)—
 - (a) for the words from the beginning to “but the right” substitute “representation was provided to the child or young person under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 for the purposes of the proceedings but”, and
 - (b) for “to be granted such a right” substitute “for such representation”.
 - (3) In paragraph (aa) for “to be granted a right to it” substitute “for such representation”.
- 5 (1) In section 23 of that Act as it has effect pursuant to section 98 of the Crime and Disorder Act 1998 (restrictions on remand of boy who is not legally represented), subsection (4A) is amended as follows.
 - (2) In paragraph (a)—

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- (a) for the words from the beginning to “but the right” substitute “representation was provided to the person under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 for the purposes of the proceedings but”, and
 - (b) for “to be granted such a right” substitute “for such representation”.
- (3) In paragraph (aa) for “to be granted a right to it” substitute “for such representation”.

Attachment of Earnings Act 1971 (c. 32)

- 6 In section 1(3)(c) of the Attachment of Earnings Act 1971 (cases in which magistrates’ court may make attachment of earnings order) for the words from “paid by” to the end substitute “paid under regulations under section 23 or 24 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

Solicitors Act 1974 (c. 47)

- 7 The Solicitors Act 1974 is amended as follows.
- 8 (1) Section 47 (jurisdiction and powers of Tribunal) is amended as follows.
- (2) In subsections (2)(d), (2B) and (2D) for “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service” substitute “criminal legal aid work”.
- (3) In subsection (2A)—
- (a) for “providing representation” substitute “criminal legal aid work”, and
 - (b) for “funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service” substitute “provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.
- (4) After subsection (3B) insert—
- “(3C) In this section “criminal legal aid work” means the provision under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 of—
- (a) advice or assistance described in section 13 or 15 of that Act, or
 - (b) representation for the purposes of criminal proceedings.”
- 9 In section 49(3) (appeals from Tribunal) for “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service” substitute “criminal legal aid work (as defined in that section)”.

House of Commons Disqualification Act 1975 (c. 24)

- 10 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) omit “The Legal Services Commission.”

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 11 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified) omit “The Legal Services Commission.”

Status: This is the original version (as it was originally enacted).

Magistrates' Courts Act 1980 (c. 43)

- 12 The Magistrates' Courts Act 1980 is amended as follows.
- 13 In section 8(4) (matters which may be contained in report of committal proceedings without an order) for paragraph (i) substitute—
- “(i) whether, for the purposes of the proceedings, representation was provided to the accused or any of the accused under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”
- 14 In section 8A(5) (power to make ruling at pre-trial hearing)—
- (a) in paragraph (a) for the words from “to be granted” to “Criminal Defence Service” substitute “to be provided with representation for the purposes of the proceedings under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”, and
- (b) in paragraph (b) for “the Legal Services Commission must decide whether or not to grant him that right” substitute “the necessary arrangements must be made for him to apply for it and, where appropriate, obtain it”.
- 15 In section 8C(7) (matters to which reporting restrictions do not apply) for paragraph (g) substitute—
- “(g) whether, for the purposes of the proceedings, representation was provided to the accused or any of the accused under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”
- 16 In section 92(1)(b) (exception to restriction on power to impose imprisonment for default) for the words from “under section 17(2)” to “criminal case” substitute “made by a court under regulations under section 23 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (payment by individual in respect of legal aid)”.
- 17 In section 130(3) (powers of alternate court on transfer of remand hearing) for the words from “all the powers” to end substitute “all of the following powers which that court would have had but for the order—
- (a) powers in relation to further remand (whether in custody or on bail), and
- (b) powers under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”
- 18 In section 145A(4) (rules about costs orders against legal representatives) for “the Legal Services Commission” substitute “the Lord Chancellor under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

Senior Courts Act 1981 (c. 54)

- 19 The Senior Courts Act 1981 is amended as follows.
- 20 In section 28(4) (appeals from Crown Court and inferior courts) for “an order under section 17 of the Access to Justice Act 1999” substitute “a requirement to make a payment under regulations under section 23 or 24 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.
- 21 In section 29(6) (mandatory, prohibiting and quashing orders) for “orders under section 17 of the Access to Justice Act 1999” substitute “requirements to make payments under regulations under section 23 or 24 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

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Prosecution of Offences Act 1985 (c. 23)

- 22 Part 2 of the Prosecution of Offences Act 1985 (costs in criminal cases) is amended as follows.
- 23 In section 19(2)(b) (matters of which account to be taken when making order as to costs) for “any grant of a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service” substitute “of whether, for the purposes of the proceedings, representation has been provided under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.
- 24 In section 20(2) (regulations) for “by the Legal Services Commission or out of central funds” substitute “by the Lord Chancellor under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 or out of central funds in accordance with a costs order”.
- 25 (1) Section 21 (interpretation) is amended as follows.
- (2) In subsection (1), in the definition of “legally assisted person” for the words from “to whom” to the end of the definition substitute “for whom advice, assistance or representation is provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.
- (3) In subsection (4A)(a) for the words from “not” to “Service” substitute “not to include the cost of advice, assistance or representation provided to the person under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.
- (4) In subsection (4A)(b) for the words from “the cost” to the end substitute “the cost of such advice, assistance or representation”.

Child Abduction and Custody Act 1985 (c. 60)

- 26 In section 11 of the Child Abduction and Custody Act 1985 (cost of applications for child custody or access), for paragraph (a) (but not the “or” following it) substitute—
- “(a) the provision of any civil legal services (within the meaning of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012) under arrangements made for the purposes of that Part of that Act.”.

Administration of Justice Act 1985 (c. 61)

- 27 Part 3 of the Administration of Justice Act 1985 (legal aid) is amended as follows.
- 28 In section 40(1) (legal aid complaints) for the words from “funded by” to “Criminal Defence Service” substitute “under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.
- 29 In section 41(2) (reduction of fees payable where legal aid complaint made)—
- (a) for “Legal Services Commission” substitute “Lord Chancellor”, and
- (b) for “by him as part of the Community Legal Service or Criminal Defence Service” substitute “by the barrister under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.
- 30 (1) Section 42 (exclusion of barristers from legal aid work) is amended as follows.

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(2) In subsections (1) and (3) for “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service” substitute “criminal legal aid work”.

(3) At the end insert—

“(5) In this section “criminal legal aid work” means the provision under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 of—

- (a) advice or assistance described in section 13 or 15 of that Act, or
- (b) representation for the purposes of criminal proceedings.”

31 In section 43(3) (reduction of costs payable where legal aid complaint made)—

- (a) for “Legal Services Commission” substitute “Lord Chancellor”, and
- (b) for “as part of the Community Legal Service or Criminal Defence Service” substitute “under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

32 In paragraph 20(1) of Schedule 2 (powers of Tribunal in respect of legal aid complaints) for “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service” substitute “criminal legal aid work (as defined in that section)”.

Housing Act 1985 (c. 68)

33 In section 170(5) of the Housing Act 1985 (charges to recover costs of assistance in legal proceedings)—

- (a) for “section 10(7) of the Access to Justice Act 1999” substitute “section 25 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”, and
- (b) for “Legal Services Commission” substitute “Lord Chancellor”.

Criminal Justice Act 1987 (c. 38)

34 The Criminal Justice Act 1987 is amended as follows.

35 In section 4(1) (notices of transfer to Crown Court) for “paragraph 2 of Schedule 3 to the Access to Justice Act 1999” substitute “regulations under section 19 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

36 In section 11(12) (matters to which reporting restrictions do not apply) for paragraph (h) substitute—

- “(h) whether, for the purposes of the proceedings, representation was provided to the accused or any of the accused under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”

Housing Act 1988 (c. 50)

37 In section 82(4) of the Housing Act 1988 (charges to recover costs of assistance in legal proceedings)—

- (a) for “section 10(7) of the Access to Justice Act 1999” substitute “section 25 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”, and
- (b) for “Legal Services Commission” substitute “Lord Chancellor”.

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Children Act 1989 (c. 41)

- 38 In section 25(6) of the Children Act 1989 (child without legal representation not to be placed in secure accommodation without having been informed of right to apply for legal aid), for the words from “representation” to “Criminal Defence Service” substitute “the provision of representation under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

Courts and Legal Services Act 1990 (c. 41)

- 39 (1) Section 31B of the Courts and Legal Services Act 1990 (advocates and litigators employed by Legal Services Commission) is amended as follows.
- (2) In the heading of the section for “Legal Services Commission” substitute “Lord Chancellor”.
- (3) In subsection (1) for paragraph (b) substitute—
- “ (b) is employed by the Lord Chancellor, or by any body established and maintained by the Lord Chancellor, under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”

Criminal Justice Act 1991 (c. 53)

- 40 In section 53(3) of the Criminal Justice Act 1991 (effect of notices transferring certain cases involving children) for “paragraph 2 of Schedule 3 to the Access to Justice Act 1999” substitute “regulations under section 19 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

Social Security Administration Act 1992 (c. 5)

- 41 (1) Section 108(7) of the Social Security Administration Act 1992 is amended as follows.
- (2) For “Legal Services Commission”, in the first place, substitute “Lord Chancellor”.
- (3) In paragraph (a)—
- (a) at the end of sub-paragraph (iii) for “and” substitute “or”, and
- (b) after that sub-paragraph insert—
- “ (iv) was provided with civil legal services (within the meaning of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012) under arrangements made for the purposes of that Part of that Act; and”.
- (4) In paragraph (b) after sub-paragraph (iii) insert “or
- (iv) under regulations under section 23 or 24 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 in respect of civil legal services (within the meaning of Part 1 of that Act) provided under arrangements made for the purposes of that Part of that Act,”.

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Criminal Procedure and Investigations Act 1996 (c. 25)

- 42 In section 37(9) of the Criminal Procedure and Investigations Act 1996 (matters to which reporting restrictions do not apply) for paragraph (g) substitute—
- “(g) whether, for the purposes of the proceedings, representation was provided to the accused or any of the accused under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”

Family Law Act 1996 (c. 27)

- 43 The Family Law Act 1996 is amended as follows.
- 44 (1) Section 8 (attendance at information meetings) is amended as follows.
- (2) In subsection (9)(h) for “services funded by the Legal Services Commission as part of the Community Legal Service” substitute “civil legal services under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.
- (3) In subsection (12) for “funded for him by the Legal Services Commission as part of the Community Legal Service” substitute “provided for the person under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.
- (4) In subsection (13), after “section” insert—
- ““civil legal services” has the meaning given in Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;”.
- 45 (1) Section 23 (provision of marriage counselling) is amended as follows.
- (2) In subsection (3) for “funded for them by the Legal Services Commission as part of the Community Legal Service” substitute “provided for them under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.
- (3) Omit subsection (8) (powers of Legal Services Commission).

Crime and Disorder Act 1998 (c. 37)

- 46 The Crime and Disorder Act 1998 is amended as follows.
- 47 (1) Section 50 (early administrative hearings) is amended as follows.
- (2) In subsection (2)—
- (a) after “this section” insert “—
- (a)”,
- and
- (b) for the words from “to be granted” to the end substitute “to be provided with representation for the purposes of the proceedings under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, and
- (b) if he indicates that he does, the necessary arrangements must be made for him to apply for it and, where appropriate, obtain it.”
- (3) Omit subsection (2A).
- 48 In section 51B(6)(b) (effect of notice given under section 51B in serious or complex fraud cases) for “paragraph 2 of Schedule 3 to the Access to Justice Act 1999”

substitute “regulations under section 19 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

49 In section 52A(7) (matters to which reporting restrictions do not apply) for paragraph (h) substitute—

“(h) whether, for the purposes of the proceedings, representation was provided to the accused or any of the accused under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”

50 In paragraph 3(8) of Schedule 3 (matters to which reporting restrictions do not apply) for paragraph (g) substitute—

“(g) whether, for the purposes of the proceedings, representation was provided to the accused or any of the accused under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”

Access to Justice Act 1999 (c. 22)

51 In the Access to Justice Act 1999 omit—

- (a) sections 1 to 26 and Schedules 1 to 3A (legal aid), and
- (b) Part 2 of Schedule 14 (transitional provision: Legal Services Commission).

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

52 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.

53 (1) Section 83(3) (exception to restriction on imposition of custodial sentence on persons not legally represented) is amended as follows.

(2) In paragraph (a)—

- (a) for the words from the beginning to “but the right” substitute “representation was made available to him for the purposes of the proceedings under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 but”, and
- (b) for “to be granted such a right” substitute “for such representation”.

(3) In paragraph (aa) for “to be granted a right to it” substitute “for such representation”.

54 In section 155(8) (alteration of Crown Court sentence) for “under section 17(2) of the Access to Justice Act 1999” substitute “relating to a requirement to make a payment under regulations under section 23 or 24 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

Freedom of Information Act 2000 (c. 36)

55 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities) omit “The Legal Services Commission.”

International Criminal Court Act 2001 (c. 17)

56 In section 6(2)(c) of the International Criminal Court Act 2001 (supplementary provisions as to proceedings before competent court) for “Access to Justice Act 1999 (c.22) (advice, assistance and representation)” substitute “Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

Status: This is the original version (as it was originally enacted).

Anti-terrorism, Crime and Security Act 2001 (c. 24)

- 57 In Schedule 4 to the Anti-terrorism, Crime and Security Act 2001 (extension of disclosure powers)—
- (a) omit paragraph 47, and
 - (b) after paragraph 53D insert—
- “53E Sections 34(2) and 35 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”

Proceeds of Crime Act 2002 (c. 29)

- 58 The Proceeds of Crime Act 2002 is amended as follows.
- 59 In section 245C(6)(b) (exclusion from property freezing order or prohibition on dealing with property to which order applies) for “funded by the Legal Services Commission or” substitute “made available under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 or funded by”.
- 60 In section 252(4A)(b) (exclusion from restriction on dealing with property) for “funded by the Legal Services Commission or” substitute “made available under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 or funded by”.

Communications Act 2003 (c. 21)

- 61 In section 119(7)(a) of the Communications Act 2003 (charges to recover costs of assistance in proceedings)—
- (a) for “section 10(7) of the Access to Justice Act 1999 (c.22)” substitute “section 25 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”, and
 - (b) for “Legal Services Commission” substitute “Lord Chancellor”.

Extradition Act 2003 (c. 41)

- 62 The Extradition Act 2003 is amended as follows.
- 63 In section 45(7) (consent to extradition) for paragraph (a) substitute—
- “(a) in England and Wales, representation for the purposes of criminal proceedings provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;”.
- 64 In section 127(8) (consent to extradition: general) for paragraph (a) substitute—
- “(a) in England and Wales, representation for the purposes of criminal proceedings provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;”.

Criminal Justice Act 2003 (c. 44)

- 65 In section 71(8) of the Criminal Justice Act 2003 (matters to which reporting restrictions do not apply) for paragraph (g) substitute—

Status: This is the original version (as it was originally enacted).

- “(g) whether, for the purposes of the proceedings, representation was provided to the defendant or any of the defendants under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”

Domestic Violence, Crime and Victims Act 2004 (c. 28)

- 66 In Schedule 9 to the Domestic Violence, Crime and Victims Act 2004 (authorities within remit of Commissioner for Victims and Witnesses) omit paragraph 21 (Legal Services Commission).

Equality Act 2006 (c. 3)

- 67 In section 29(3) of the Equality Act 2006 (costs of Equality and Human Rights Commission in providing legal assistance) for “section 11(4)(f) of the Access to Justice Act 1999 (c. 22) (recovery of costs in funded cases)” substitute “section 25 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (statutory charge in connection with civil legal aid)”.

Legal Services Act 2007 (c. 29)

- 68 In section 194(6) of the Legal Services Act 2007 (payments in respect of pro bono representation) for paragraph (b) substitute—
“(b) provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”

Criminal Justice and Immigration Act 2008 (c. 4)

- 69 In paragraph 19(2) of Schedule 1 to the Criminal Justice and Immigration Act 2008 (preconditions to imposing local authority residence requirement or fostering requirement) for paragraph (a) (but not the “or” following it) substitute—
“(a) that representation was made available to the offender for the purposes of the proceedings under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 but was withdrawn because of the offender’s conduct.”

Equality Act 2010 (c. 15)

- 70 In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities) omit “The Legal Services Commission.”

Terrorist Asset-Freezing etc Act 2010 (c. 38)

- 71 In section 23(1)(d) (general power to disclose information) omit “the Legal Services Commission.”