

# LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY

#### **Part 1: Legal Aid**

#### **Criminal legal aid**

#### *Section 20: Provisional determinations*

162. *Section 20* makes provision about the power of the Director or a court to make a provisional determination about whether an individual qualifies for representation in certain cases. This reflects paragraph 1A of Schedule 3 to the Access to Justice Act 1999.
163. *Subsection (1)* enables the Lord Chancellor to make regulations to allow the Director or a court to make a provisional determination about whether an individual qualifies for representation where the individual is involved in an investigation which may result in criminal proceedings, the determination is for the purposes of criminal proceedings that may result from that investigation and other specified conditions are met. A provisional grant of a representation order is currently permitted in investigations where the prosecution has initiated plea discussions under the Attorney General's Guidelines on Plea Discussions in Cases of Serious or Complex Fraud.
164. *Subsection (2)* provides that the regulations may make provision about the stage of an investigation when a provisional determination may be made, provision about when the provisional determination becomes a full determination and ceases to be provisional, and provision about the withdrawal of a provisional determination.