



# National Security Act 2023

## 2023 CHAPTER 32

### PART 5

#### TERRORISM

PROSPECTIVE

#### *Legal aid*

#### **89 Legal aid for individuals convicted of terrorism offences**

- (1) The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.
- (2) In section 9(1) (general cases), at the end insert—

“This is subject to section 9A (limits on access to civil legal services for individuals convicted of terrorism offences).”
- (3) After section 9 insert—

#### **“9A Limits on access to civil legal services for individuals convicted of terrorism offences**

- (1) Civil legal services described in Part 1 of Schedule 1 other than those in paragraph 12 of Schedule 1 (“general case services”) are only to be available to an individual convicted of a terrorism offence (an “offender”) under this Part if—
  - (a) the Director has made a determination under section 9(1)(b) (a “general case determination”) in relation to the offender (and has not withdrawn the determination), and
  - (b) the Director determines that one or more of Conditions A to G are met.

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*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Cross Heading: Legal aid. (See end of Document for details)*

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- (2) Condition A is met where the offender was convicted of the terrorism offence before 19 February 2001.
- (3) Condition B is met where the offender was under the age of 18 on the date they applied for the general case determination (the “application date”).
- (4) Condition C is met where the offender was convicted of the terrorism offence more than 30 years before the application date.
- (5) Condition D is met where the offender was convicted of the terrorism offence—
  - (a) when they were under the age of 18, and
  - (b) more than 15 years before the application date.
- (6) Condition E is met where the offender applied for the general case determination before—
  - (a) the commencement date, or
  - (b) the date on which they were convicted of the terrorism offence.
- (7) Condition F is met where the Director has made (and not withdrawn) an exceptional case determination, within the meaning given by section 10(3), in relation to the offender and the general case services.
- (8) Condition G is met where—
  - (a) the general case services are those described in paragraph 11, 33, 34 or 35 of Schedule 1 (services in relation to domestic violence and housing), and
  - (b) the offender—
    - (i) was or is a victim of domestic violence occurring after the relevant date, or
    - (ii) is at risk of being a victim of domestic violence.
- (9) In subsection (8)—
  - “domestic violence” has the meaning given in paragraph 12(9) of Schedule 1;
  - “relevant date” means the date five years before the application date.
- (10) Regulations may make provision specifying for the purposes of this section when an individual is deemed to have applied for a general case determination.
- (11) In this section, “terrorism offence” means any of the following (whenever committed)—
  - (a) an offence listed in—
    - (i) Schedule A1 to the Sentencing Code (terrorism offences: England and Wales), or
    - (ii) Schedule 1A to the Counter-Terrorism Act 2008 (terrorism offences: Scotland and Northern Ireland);
  - (b) a service offence as respects which the corresponding civil offence is so listed;
  - (c) an offence that—
    - (i) was abolished on or before the commencement date, and

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- (ii) if committed on or after the date on which it was abolished, would have constituted an offence referred to in paragraph (a) or (b);
  - (d) an offence determined to have a terrorist connection under—
    - (i) section 69 of the Sentencing Code (in the case of an offender sentenced in England and Wales), including as applied by section 238(6) of the Armed Forces Act 2006,
    - (ii) section 30 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Northern Ireland, or an offender sentenced in England and Wales before the Sentencing Code applied), or
    - (iii) section 32 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced for a service offence before the Sentencing Code applied);
  - (e) an offence proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Scotland).
- (12) Where an offender has been convicted of more than one terrorism offence, “the terrorism offence” in this section means the terrorism offence the offender has most recently been convicted of.
- (13) In this section—  
“commencement date” means the date on which section 89 of the National Security Act 2023 comes into force;  
“service offence” and “corresponding civil offence” have the same meanings as in the Counter-Terrorism Act 2008 (see section 95 of that Act).
- (14) Nothing in this section affects the Director’s ability to make determinations under section 10 (exceptional cases).”
- (4) In section 12 (determinations)—  
(a) in subsection (2), after “9” insert “, 9A”;  
(b) in subsection (5), after “9” insert “, 9A”.

#### Commencement Information

**II** S. 89 not in force at Royal Assent, see s. 100(1)

## 90 Legal aid for individuals convicted of terrorism offences: data sharing

In the Legal Aid, Sentencing and Punishment of Offenders Act 2012, after section 9A (as inserted by section 89) insert—

### “9B Information relating to convictions for terrorism offences

- (1) The Director may make an information request to a competent authority.
- (2) An information request under this section may be made only for the purpose of identifying—

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- (a) whether an individual who has applied for a determination under section 9 has been convicted of a terrorism offence, and
  - (b) if the individual has been so convicted, details relating to that conviction.
- (3) An information request under this section may in particular request the disclosure of any of the following—
- (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 number identifying a relevant individual in a system maintained by a body established in accordance with a collaboration agreement under section 22A of the Police Act 1996;
  - (f) a number identifying a relevant individual in a system maintained by the Secretary of State for the management of offenders;
  - (g) any convictions of a relevant individual;
  - (h) any details relating to those convictions, including the date of conviction and any sentence imposed.
- (4) A competent authority may disclose to the Director information specified in an information request made under this section.
- (5) The Director may, for the purposes of deciding whether general case services are to be available to an individual under this Part, process any personal data in respect of a relevant individual disclosed by a competent authority to the Director under this section.
- (6) This section does not authorise the disclosure or processing of information if the disclosure or processing would contravene the data protection legislation (but, in determining whether a disclosure or processing would do so, the powers conferred by this section are to be taken into account).
- (7) In this section—
- “competent authority” has the same meaning as in section 30 of the Data Protection Act 2018;
  - “general case services” and “terrorism offence” have the same meanings as in section 9A;
  - “personal data”, “processing” and “the data protection legislation” have the same meanings as in section 3 of the Data Protection Act 2018;
  - “relevant individual” means—
    - (a) an individual who has applied for a determination under section 9, or
    - (b) an individual who has been convicted of a terrorism offence.”

#### Commencement Information

**I2** S. 90 not in force at Royal Assent, see [s. 100\(1\)](#)

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## **91 Legal aid in relation to terrorism prevention and investigation measures**

- (1) In Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services), in Part 1 (services), paragraph 45 is amended as follows.
- (2) Omit sub-paragraph (2).
- (3) For sub-paragraph (3) substitute—
  - “(3) Sub-paragraph (1) is subject to—
    - (a) the exclusions in Part 2 of this Schedule, with the exception of paragraph 18 of that Part, and
    - (b) the exclusion in Part 3 of this Schedule.”
- (4) In sub-paragraph (4) omit the definition of “control order proceedings”.

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### **Commencement Information**

**I3** S. 91 not in force at Royal Assent, see [s. 100\(1\)](#)

**Status:**

This version of this cross heading contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the National Security Act 2023, Cross Heading: Legal aid.