

Draft Order laid before Parliament under section 41(6) 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

2024 No.

**LEGAL AID AND ADVICE,
ENGLAND AND WALES**

**The Legal Aid, Sentencing and Punishment of Offenders Act
2012 (Legal Aid: Domestic Abuse) (Amendment) Order 2024**

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), 41(1)(a) and (b), and 41(2)(a) and (b) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012⁽¹⁾.

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament in accordance with section 41(6) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

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) (Amendment) Order 2024 and comes into force on the day after the day on which it is made.

(2) This Order extends to England and Wales only.

Amendments to Part 3 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012

2.—(1) Part 3 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services; advocacy: exclusion and exceptions) is amended as follows.

(2) In paragraph 6—

(a) omit “and” at the end of sub-paragraph (d);

(b) at the end of sub-paragraph (e) insert—

“, and

(1) 2012 c. 10.

(f) proceedings on an appeal under section 46(1) or (5) of the Domestic Abuse Act 2021⁽²⁾

(3) In paragraph 7(b), before “and” insert—

“(ba) paragraph 11(1A)(a)⁽³⁾ and, in so far as it relates to a domestic abuse protection order made under section 28 of the Domestic Abuse Act 2021, paragraph 11(1A)(c),”

Signed by authority of the Lord Chancellor

Name
Ministry of Justice

⁽²⁾ 2021 c. 17.

⁽³⁾ Sub-paragraph (1A) was inserted by [S.I. 2023/150](#), art. 4(3)(a).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Part 3 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“the Act”). It should be read in conjunction with the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Legal Aid: Family and Domestic Abuse) (Miscellaneous Amendments) Order 2023 (S.I. 2023/150) (“the 2023 Order”), articles 4(3) and 8 of which make provision for legal aid in relation to orders and proceedings under Part 3 of the Domestic Abuse Act 2021 (c. 17) (“the DA Act”).

Article 2(2) inserts a new sub-paragraph (f) into paragraph 6 of Part 3 of Schedule 1 to the Act. This provides civil legal aid for advocacy in the Crown Court in relation to an appeal against a decision of the magistrates’ court to make, vary, or discharge a domestic abuse protection order (“DAPO”) under Part 3 of the DA Act. This provision of legal aid is only in relation to a DAPO which has been made or sought by the police under section 28 of the DA Act in the magistrates’ court. The provision of legal aid is for the person who is protected by and the person against whom the DAPO was made. Other proceedings in the Crown Court, in relation to DAPOs made under section 31 of the DA Act, will be criminal proceedings for which legal aid provision is made under the 2023 Order.

Article 2(3) inserts new sub-paragraph (ba) into paragraph 7 of Part 3 of Schedule 1 to the Act. This provides civil legal aid for advocacy in the magistrates’ court in relation to an application by the police for a DAPO and an application to vary or discharge such an order. The provision of legal aid is for the person who is protected by and the person against whom the DAPO has been sought or made. Other proceedings in the magistrates’ court in relation to DAPOs will be criminal proceedings under section 31 of the DA Act, for which legal aid provision is made under the 2023 Order.

An impact assessment of the effect that this instrument will have on the cost to business and the voluntary sector and community bodies is 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 on www.legislation.gov.uk.