



# Criminal Justice and Immigration Act 2008

## 2008 CHAPTER 4

### PART 4

#### OTHER CRIMINAL JUSTICE PROVISIONS

##### *Criminal legal aid*

#### **56 Provisional grant of right to representation**

- (1) Part 1 of the Access to Justice Act 1999 (c. 22) is amended as follows.
- (2) In section 14(1) (representation)—
  - (a) after “criminal proceedings” insert “and about the provisional grant of a right to representation in prescribed circumstances”;
  - (b) after “granted” insert “, or provisionally granted,”.
- (3) In section 15(1) (selection of representative) after “granted” insert “, or provisionally granted,”.
- (4) In section 25(9) (orders, regulations and directions subject to affirmative resolution procedure) for “paragraph 2A” substitute “paragraph 1A, 2A,”.
- (5) In section 26 (interpretation) after the definition of “representation” insert—

“and, for the purposes of the definition of “representation”, “proceedings” includes, in the context of a provisional grant of a right to representation, proceedings that may result from the investigation concerned.”
- (6) After paragraph 1 of Schedule 3 (individuals to whom right may be granted) insert—

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*Status: This is the original version (as it was originally enacted).*

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*“Individuals to whom right may be provisionally granted*

- 1A (1) Regulations may provide that, in prescribed circumstances, and subject to any prescribed conditions, a right to representation may be provisionally granted to an individual where—
- (a) the individual is involved in an investigation which may result in criminal proceedings, and
  - (b) the right is so granted for the purposes of criminal proceedings that may result from the investigation.
- (2) Regulations under sub-paragraph (1) may, in particular, make provision about—
- (a) the stage in an investigation at which a right to representation may be provisionally granted;
  - (b) the circumstances in which a right which has been so granted—
    - (i) is to become, or be treated as if it were, a right to representation under paragraph 1, or
    - (ii) is to be, or may be, withdrawn.”
- (7) In paragraph 2A of Schedule 3 (grant of right by Commission) at the end of sub-paragraph (1)(b) insert—
- “(c) provide that any provisional grant of a right to representation, or any withdrawal of a right so granted, in accordance with regulations under paragraph 1A is to be made by the Commission.”
- (8) In paragraph 3A(1) of Schedule 3 (form of the grant of a right to representation) after “grant” insert “, or provisional grant,”.
- (9) In paragraph 3B of Schedule 3 (financial eligibility)—
- (a) in sub-paragraph (1)—
    - (i) after “grant” insert “, or provisionally grant,”;
    - (ii) after “granted” insert “, or provisionally granted,”;
  - (b) in sub-paragraph (2)(a), after “granted” insert “, or provisionally granted,”.
- (10) In paragraph 4 of Schedule 3 (appeals) at the end insert—
- “This paragraph does not apply in relation to any right to representation granted in accordance with paragraph 1A.”
- (11) In paragraph 5 of Schedule 3 (criteria for grant of right)—
- (a) in sub-paragraph (1), after “grant” insert “, or provisionally grant,”;
  - (b) after sub-paragraph (2) insert—
 

“(2A) For the purposes of sub-paragraph (2), “proceedings” includes, in the context of a provisional grant of a right to representation, proceedings that may result from the investigation in which the individual is involved.”;
  - (c) in sub-paragraph (4), after “grant” insert “, or provisional grant,”.