
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“the Act”) and secondary legislation under the Act.

Article 4(2) adds a new paragraph 1A to Part 1 of Schedule 1 to the Act to provide civil legal aid for proceedings for special guardianship orders. Article 4(3) amends paragraph 11 of Part 1 of Schedule 1 to the Act to provide civil legal aid for matters relating to domestic abuse protection orders introduced under Part 3 of the Domestic Abuse Act 2021 (c. 17). Article 4(4) substitutes a new paragraph 28(1)(a) of Part 1 of Schedule 1 to the Act to make civil legal aid available for applicants seeking indefinite leave to remain in United Kingdom where their right to enter or remain in the United Kingdom was initially based on the immigration status of their partner but that relationship has permanently broken down because of domestic violence. The amendment aligns the provision of civil legal aid with individuals who are eligible to apply for indefinite leave to remain under the immigration domestic violence rules. This article also amends the definition given to “immigration rules” so that it is consistent across Part 1 of Schedule 1 to the Act.

Article 5 makes consequential amendments to the Civil Legal Aid (Merits Criteria) Regulations 2013 (S.I. 2013/104). It also amends the current merits test for parents who are at risk of their child being removed in proceedings for a placement or adoption order to align the test with the merits test which applies to applications for civil legal aid by those parties where such an order is sought within care proceedings.

Article 6 makes consequential amendments to the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 (S.I. 2013/480). In addition, the article removes the means test eligibility requirements for parents or those with parental responsibility opposing an application for either a placement or adoption order. This aligns the approach with that taken within care proceedings.

Article 7 amends Schedule 1 to the Civil Legal Aid (Procedure) Regulations 2012 (S.I. 2012/3098) to include domestic abuse protection notices, introduced by the Domestic Abuse Act 2021, as an acceptable form of supporting evidence for applications for civil legal aid falling within paragraph 12 of Part 1 of Schedule 1. The article also amends Schedule 1 to the regulations to enable an examination by a health professional to take place over the telephone or by video conference as an alternative to examination in person for the purposes of providing a report or letter as supporting evidence of domestic abuse. In addition, this article omits the definition of “Immigration Rules” because that term is not used in Schedule 1 to the Civil Legal Aid (Procedure) Regulations 2012.

Article 8 amends the Criminal Legal Aid (General) Regulations 2013 (S.I. 2013/422) to prescribe certain proceedings under the Domestic Abuse Act 2021 as “criminal proceedings” for the purposes of Part 1 of the Act.