



Legal Aid Act 1988

1988 CHAPTER 34

PART V

CRIMINAL LEGAL AID

21 Availability of representation under this Part

- (1) Representation under this Part for the purposes of any criminal proceedings shall be available in accordance with this section to the accused or convicted person but shall not be available to the prosecution except in the case of an appeal to the Crown Court against conviction or sentence, for the purpose of enabling an individual who is not acting in an official capacity to resist the appeal.
- (2) Subject to subsection (5) below, representation may be granted where it appears to the competent authority to be desirable to do so in the interests of justice; and section 22 applies for the interpretation of this subsection in relation to the proceedings to which that section applies.
- (3) Subject to subsection (5) below, representation must be granted—
 - (a) where a person is committed for trial on a charge of murder, for his trial;
 - (b) where the prosecutor appeals or applies for leave to appeal to the House of Lords, for the proceedings on the appeal;
 - (c) where a person charged with an offence before a magistrates' court—
 - (i) is brought before the court in pursuance of a remand in custody when he may be again remanded or committed in custody, and
 - (ii) is not, but wishes to be, legally represented before the court (not having been legally represented when he was so remanded),for so much of the proceedings as relates to the grant of bail; and
 - (d) where a person—
 - (i) is to be sentenced or otherwise dealt with for an offence by a magistrates' court or the Crown Court, and
 - (ii) is to be kept in custody to enable enquiries or a report to be made to assist the court,

Status: This is the original version (as it was originally enacted).

for the proceedings on sentencing or otherwise dealing with him.

- (4) Subject to any provision made under section 3(4) by virtue of section 20(10), in a case falling within subsection (3)(a) above, it shall be for the magistrates' court which commits the person for trial, and not for the Crown Court, to make the grant of representation for his trial.
- (5) Representation shall not be granted to any person unless it appears to the competent authority that his financial resources are such as, under regulations, make him eligible for representation under this Part.
- (6) Before making a determination for the purposes of subsection (5) above in the case of any person, the competent authority shall, except in prescribed cases, require a statement of his financial resources in the prescribed form to be furnished to the authority.
- (7) Where a doubt arises whether representation under this Part should be granted to any person, the doubt shall be resolved in that person's favour.
- (8) Where an application for representation for the purposes of an appeal to the Court of Appeal or the Courts-Martial Appeal Court is made to a competent authority before the giving of notice of appeal or the making of an application for leave to appeal, the authority may, in the first instance, exercise its power to grant representation by making a grant consisting of advice on the question whether there appear to be reasonable grounds of appeal and assistance in the preparation of an application for leave to appeal or in the giving of a notice of appeal.
- (9) Representation granted by a competent authority may be amended or withdrawn, whether by that or another authority competent to grant representation under this Part.
- (10) Regulations may provide for an appeal to lie to a specified court or body against any refusal by a magistrates' court to grant representation under this Part and for that other court or body to make any grant of representation that could have been made by the magistrates' court.
- (11) Subsection (3) above shall have effect in its application to a person who has not attained the age of eighteen as if the references in paragraphs (c) and (d) to remand in custody and to being remanded or kept in custody included references to being committed under section 23 of the Children and Young Persons Act 1969 to the care of a local authority or a remand centre.