Draft Regulations laid before Parliament under section 41(6) and (7)(h) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Legal Aid (Information about Financial Resources) Regulations 2013

Made - - - -	*****
Coming into force - -	*1st April 2013*

The Lord Chancellor makes the following Regulations(**1**) in exercise of the powers conferred by sections 22(3)(f), (4)(h), (5) and (8)(**2**) and 41(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(**3**).

The Commissioners for Her Majesty's Revenue and Customs have agreed to the making of regulations 3 and 4 in accordance with section 22(6) of that Act.

In accordance with section 41(6) and (7)(h) of that Act, a draft of this instrument has been laid before and approved by a resolution of each House of Parliament.

PART 1

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Legal Aid (Information about Financial Resources) Regulations 2013 and come into force on 1st April 2013.

(**1**) Section 42(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) provides that in Part 1 of that Act "regulations" means regulations made by the Lord Chancellor.

(**2**) Section 22(8) includes a definition of "benefit status". This means, in relation to an individual, whether or not the individual is in receipt of a prescribed benefit. Paragraph (c) of the definition includes a power to prescribe cases in which "benefit status" also means the amount the individual is receiving by way of the benefit. Paragraph (d) of the definition includes a power, in relation to benefits consisting of a number of elements, to prescribe cases in which "benefit status" also means what those elements are and the amount included in respect of each element in calculating the benefit amount. Section 42(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 provides that in Part 1 of that Act "prescribed" means prescribed by regulations.

(**3**) 2012 c. 10.

Interpretation

2. In these regulations—

"the 1992 Act" means the Social Security Contributions and Benefits Act 1992(**4**);

"the 1992 (Northern Ireland) Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**5**);

"the 2002 Act" means the Tax Credits Act 2002(**6**);

"the 2003 Act" means the Income Tax (Earnings and Pensions) Act 2003(**7**);

"the 2012 Act" means the Welfare Reform Act 2012(**8**);

"the Act" means the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

"relevant year" means, in relation to an information request under section 22(1) of the Act, the tax year in which that request is made; and

"tax year" has the meaning given in section 4 of the Income Tax Act 2007(**9**).

PART 2

INFORMATION REQUESTS

Information request: prescribed income and capital

3. An information request made by the relevant authority to a relevant Northern Ireland Department or the Commissioners under section 22(1)(b) or (c) of the Act may include, in relation to a relevant individual, a request for the disclosure of any of the following information about that individual—

(a) for the relevant year and for each of the two tax years that precede the relevant year, the amount of any of the following types of income charged to income tax—

(i) employment income under Part 2 of the 2003 Act;

(ii) pension income under Part 9 of the 2003 Act;

(iii) social security income under Part 10 of the 2003 Act; and

(iv) any income under the Income Tax (Trading and Other Income) Act 2005(**10**); and

(b) for the relevant year and for each of the two tax years that precede the relevant year, the amount of any chargeable gains charged to capital gains tax under the Taxation of Chargeable Gains Act 1992(**11**).

Information request: names of companies and partnerships

4. An information request made by the relevant authority to a relevant Northern Ireland Department or the Commissioners under section 22(1)(b) or (c) of the Act may include, in relation to a relevant individual, a request for the disclosure of information relating to—

(**4**) 1992 c. 4.
(**5**) 1992 c. 7.
(**6**) 2002 c. 21.
(**7**) 2003 c. 1.
(**8**) 2012 c. 5.
(**9**) 2007 c. 3.
(**10**) 2005 c. 5.
(**11**) 1992 c. 12.

(a) whether the individual is, or has at some point during the relevant year or the two tax years that precede the relevant year been, a director of a company and, if so, the name of that company; and

(b) whether the individual is, or has at some point during the relevant year or the two tax years that precede the relevant year been, one of two or more persons carrying on a trade, profession or business in partnership and, if so, the name of that partnership.

PART 3

PRESCRIBED BENEFITS

Prescribed benefits

5. For the purpose of an information request made by the relevant authority to the Secretary of State for the disclosure of a relevant individual's benefit status under section 22(3)(e) of the Act, the benefits listed in the Schedule are prescribed benefits.

6. For the purpose of an information request made by the relevant authority to a relevant Northern Ireland Department for the disclosure of a relevant individual's benefit status under section 22(3)(e) of the Act, the following benefits are prescribed benefits—

(a) the benefits listed in the Schedule;

(b) child benefit under section 137 of the 1992 (Northern Ireland) Act(**12**);

(c) child tax credit under Part 1 of the 2002 Act(**13**);

(d) working tax credit under Part 1 of the 2002 Act(**14**); and

(e) statutory sick pay under Part 12 of the 1992 (Northern Ireland) Act.

7. For the purpose of an information request made by the relevant authority to the Commissioners for the disclosure of a relevant individual's benefit status under section 22(4)(g) of the Act, the following benefits are prescribed benefits—

(a) child benefit under section 141 of the 1992 Act(**15**);

(b) child tax credit under Part 1 of the 2002 Act;

(c) working tax credit under Part 1 of the 2002 Act; and

(d) statutory sick pay under Part 12 of the 1992 Act.

Prescribed benefits: amount of benefit and elements of benefit

8. In any case where a relevant individual is in receipt of a prescribed benefit, the individual's benefit status includes—

(a) the amount the individual is receiving by way of a prescribed benefit; and

(b) in respect of benefits that consist of a number of elements, what each of those elements are and the amount included in respect of each element in calculating the benefit amount.

(**12**) Section 137 was amended by section 2 of the Child Benefit Act 2005 (c. 6).

(**13**) Sections 8 and 9 of the Tax Credits Act 2002 (c. 21), which provide for child tax credits, are in force for specified purposes only. Part 1 of the Tax Credits Act 2002, which includes these sections, is to be repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c. 5) at a date to be appointed.

(**14**) Sections 10 to 12 of the Tax Credits Act 2002, which provide for working tax credits, are in force for specified purposes only. Part 1 of the Tax Credits Act 2002, which includes these sections, is to be repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 at a date to be appointed.

(**15**) Section 141 was amended by section 1 of the Child Benefit Act 2005.

Signed by the authority of the Lord Chancellor

Minister of State
Ministry of Justice

Date