Draft Legislation: *This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Amendment of Schedule 1) Order 2013 ISBN 978-0-11-153398-7*

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

DRAFT STATUTORY INSTRUMENTS

2012 No.

LEGAL AID AND ADVICE, ENGLAND AND WALES

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Amendment of Schedule 1) Order 2012

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

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 9(2)(**1**) and 41(1)(a) and (b) and (2)(a) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(**2**).

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

Citation, commencement and interpretation

1. This Order may be cited as the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Amendment of Schedule 1) Order 2012 and comes into force on 1st April 2013.

2. In this Order "the Act" means the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Civil legal services: Review of decision of First-tier Tribunal relating to welfare benefits

3. In Part 1 of Schedule 1 to the Act (services), after paragraph 7 (facilities for disabled persons) insert—

(**1**) Section 9(2) enables the Lord Chancellor to modify Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). Section 42(1) of the Act provides that in Part 1 of the Act, "modify", in relation to an Act or instrument, includes amend, repeal or revoke and related terms are to be interpreted accordingly.

(**2**) 2012 c. 10.

"**Review of decision of First-tier Tribunal relating to welfare benefits**

7A.—(1) Civil legal services provided to an individual in relation to a review by the First-tier Tribunal under section 9 of the Tribunals, Courts and Enforcement Act 2007(**3**) of a decision made by it relating to a benefit, allowance, payment, credit or pension under—

(a) a social security enactment,

(b) the Vaccine Damage Payments Act 1979(**4**), or

(c) Part 4 of the Child Maintenance and Other Payments Act 2008(**5**),

but only where the first or second condition is met.

(2) The first condition is that—

(a) the individual was an appellant in the proceedings before the First-tier Tribunal that resulted in the decision,

(b) the First-tier Tribunal has given the individual an opportunity to make representations as part of the review, and

(c) the services are provided in relation to the making of such representations by the individual.

(3) The second condition is that—

(a) the individual was an appellant in the proceedings before the First-tier Tribunal that resulted in the decision,

(b) the First-tier Tribunal has taken action in relation to the decision following the review without first giving every appellant and respondent in those proceedings an opportunity to make representations as part of the review, and

(c) the services are provided in relation to an application for the action to be set aside and for the First-tier Tribunal to review the decision again.

General exclusions

(4) Sub-paragraph (1) is subject to—

(a) the exclusions in Part 2 of this Schedule, with the exception of paragraphs 1 and 15 of that Part, and

(b) the exclusion in Part 3 of this Schedule.

Definitions

(5) In this paragraph "social security enactment" means—

(a) the Social Security Contributions and Benefits Act 1992(**6**),

(b) the Jobseekers Act 1995(**7**),

(c) the State Pension Credit Act 2002(**8**),

(d) the Tax Credits Act 2002(**9**),

(e) the Welfare Reform Act 2007(**10**),

(**3**) 2007 c. 15.
(**4**) 1979 c. 17.
(**5**) 2008 c. 6.
(**6**) 1992 c. 4.
(**7**) 1995 c. 18.
(**8**) 2002 c. 16.
(**9**) 2002 c. 21.
(**10**) 2007 c. 5.