

2012 No. 2412 (C. 94)

LEGAL SERVICES, ENGLAND AND WALES

CRIMINAL LAW, ENGLAND AND WALES

REHABILITATION OF OFFENDERS

The Legal Aid, Sentencing and Punishment of Offenders Act
2012 (Commencement No. 2 and Specification of
Commencement Date) Order 2012

Made - - - -

18th September 2012

The Secretary of State makes the following Order in exercise of the powers conferred by sections 141(12) and 151(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(a).

Citation and interpretation

1.—(1) This Order may be cited as the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 2 and Specification of Commencement Date) Order 2012.

(2) In this Order, “the Act” means the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Provisions coming into force on 1st October 2012

2. The following provisions of the Act come into force on 1st October 2012—

- (a) section 45(1) and (8) (amendments to section 58AA of the Courts and Legal Services Act 1990(b) to enable rules of court to be made for the assessment of costs in proceedings where a party in whose favour a costs order has been made has entered into a damages-based agreement);
- (b) section 55 (payment of additional amount to successful claimant);
- (c) section 61 (payments in respect of pro bono representation before the Supreme Court);
- (d) section 62 (costs in criminal cases);
- (e) section 140 (no rehabilitation for certain immigration or nationality purposes);
- (f) section 141(7) to (9) and (12) (transitional provision in respect of section 140);
- (g) Schedule 7 (costs in criminal cases); and
- (h) Schedule 8 (costs in criminal cases: service courts).

(a) 2012 c.10.

(b) 1990 c.41. Section 58AA was inserted by section 154 of the Coroners and Justice Act 2009 (c.25).

Specification of commencement date for the purposes of section 141(7) to (9) of the Act

3. The commencement date for the purposes of section 141(7) to (9) of the Act is 1st October 2012.

Signed by the authority of the Secretary of State

Helen Grant
Parliamentary Under Secretary of State
Ministry of Justice

18th September 2012

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the second commencement order made under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) (“the Act”). It brings various provisions of the Act into force on 1st October 2012.

Article 2(a) brings into force section 45(1) and (8) of the Act. Section 45(1) makes provision for amendments to section 58AA of the Courts and Legal Services Act 1990 (c.41). Section 45(8) inserts new subsection (6A) into section 58AA of that Act. New subsection (6A) provides that rules of court may be made in respect of the assessment of costs in proceedings where a party in whose favour a costs order is made has entered into a damages based agreement.

Article 2(b) brings into force section 55 of the Act. Section 55 provides for rules of court to be made in relation to civil proceedings involving a claim for money to permit a court to order an additional amount to be paid to a claimant by a defendant, where the defendant does not accept the claimant’s offer to settle, and the court gives judgment for the claimant that is at least as advantageous to the claimant as the claimant’s offer. Section 55 also confers a power on the Lord Chancellor to provide that rules of court may make similar provision in relation to civil proceedings which include a non-monetary claim.

Article 2(c) brings into force section 61 of the Act, which amends section 194 of the Legal Services Act 2007 (c.29). The effect of the amendment will be to enable the Supreme Court in civil proceedings to make an order for costs in those cases where a successful party is represented pro bono with the monies being paid to a prescribed charity.

Article 2(d) brings into force section 62 of the Act, which gives effect to Schedule 7 (costs in criminal cases) and Schedule 8 (costs in criminal cases: service courts). Both Schedules make provision about costs in criminal cases. See also article 2(g) and (h).

Article 2(e) brings into force section 140 of the Act, which amends the UK Borders Act 2007 (c.30) to exclude immigration or nationality decision making, including initial decisions and any subsequent proceedings, from the operation of the Rehabilitation of Offenders Act 1974 (c.53).

Article 2(f) brings into force section 141(7) to (9) and (12) of the Act. Those subsections make provision about the effect of section 140 in relation to convictions before the commencement date (which is specified by article 3 to be 1st October 2012). Section 141(7) provides that section 140 applies in relation to convictions before 1st October 2012 (as well to convictions on or after that date). Section 141(8) provides that this is the case whether or not the person concerned is treated as a rehabilitated person, or the conviction is spent, immediately before 1st October 2012. Section 141(9) provides that section 140 does not affect any proceedings begun but not completed before 1st October 2012. Nor does it affect any application for immigration or nationality decisions made, but not finally determined, before 1st October 2012. Nor does it affect the validity of any proceedings, or any relevant immigration or nationality decision which is made before 1st October 2012.

Article 3 specifies 1st October 2012 as the commencement date for the purposes of section 141(7) to (9) of the Act.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 144	1st September 2012	2012/1956

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STATUTORY INSTRUMENTS

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