

**2013 No. 265**

**LEGAL AID AND ADVICE, ENGLAND AND WALES**

**The Civil Legal Aid (Preliminary Proceedings) Regulations  
2013**

|                               |         |                           |
|-------------------------------|---------|---------------------------|
| <i>Made</i>                   | - - - - | <i>7th February 2013</i>  |
| <i>Laid before Parliament</i> |         | <i>13th February 2013</i> |
| <i>Coming into force</i>      | - -     | <i>1st April 2013</i>     |

The Lord Chancellor makes the following Regulations(a) in exercise of the power conferred by paragraph 5(3) of Part 4 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012(b).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Civil Legal Aid (Preliminary Proceedings) Regulations 2013 and come into force on 1st April 2013.

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

**Welfare Benefits**

2. For the purposes of paragraph 5 of Part 4 of Schedule 1 to the Act, proceedings for permission to appeal in accordance with section 11(4)(a) of the Tribunals, Courts and Enforcement Act 2007(c) are not to be regarded as preliminary to proceedings described in paragraph 8 (appeals relating to welfare benefits) of Part 1 of Schedule 1 to the Act.

Signed by authority of the Lord Chancellor

7th February 2013

*McNally*  
Minister of State  
Ministry of Justice

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(a) Section 42(1) provides that in Part 1 of the Act “regulations” means regulations made by the Lord Chancellor.  
(b) 2012 c. 10.  
(c) 2007 c. 15.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Paragraph 5(1)(b) of Part 4 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“the Act”) provides that where a paragraph of Part 1 of Schedule 1 to the Act describes services that consist of, or include, services provided in relation to proceedings, the description is to be treated as including services provided in relation to preliminary or incidental proceedings. Paragraph 5(3) of Part 4 of Schedule 1 to the Act provides that regulations may make provision specifying whether proceedings are, or are not, to be regarded as preliminary or incidental for the purposes of paragraph 5.

These Regulations specify the proceedings that are not to be regarded as preliminary for the purposes of paragraph 5 of Part 4 of Schedule 1 to the Act. Paragraph 8 of Part 1 of Schedule 1 to the Act describes civil legal services that may be available in relation to appeals relating to welfare benefits. Section 11(4)(a) of the Tribunals, Courts and Enforcement Act 2007 (c. 15) (“the 2007 Act”) provides that the First-tier Tribunal may grant permission to appeal to the Upper Tribunal on application by a party. The Regulations provide that proceedings under section 11(4)(a) of the 2007 Act are, for the purposes of paragraph 5 of Part 4 of Schedule 1 to the Act, not to be regarded as preliminary to proceedings for which civil legal services may be provided under paragraph 8 of Part 1 of Schedule 1 to the Act. The effect is that in cases relating to welfare benefits, applications to the First-tier Tribunal for permission to appeal a decision of the First-tier Tribunal to the Upper Tribunal will not be within the general scope of civil legal aid.

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