PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT CIVIL LEGAL AID (MERITS CRITERIA) (AMENDMENT) (NO. 2) REGULATIONS 2013

DRAFT COSTS IN CRIMINAL CASES (LEGAL COSTS) (EXCEPTIONS) REGULATIONS 2013

Tuesday 14 January 2014

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The Committee consisted of the following Members:

Chair: Mr Adrian Sanders

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† Bradley, Karen *(Lord Commissioner of Her Majesty's Treasury)*
† de Bois, Nick *(Enfield North)* (Con)
† Denham, Mr John *(Southampton, Itchen)* (Lab)
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† Phillipson, Bridget *(Houghton and Sunderland South)* (Lab)
† Randall, Sir John *(Uxbridge and South Ruislip)* (Con)
Shannon, Jim *(Strangford)* (DUP)
† Skidmore, Chris *(Kingswood)* (Con)
† Slaughter, Mr Andy *(Hammersmith)* (Lab)
† Smith, Mr Andrew *(Oxford East)* (Lab)
† Vara, Mr Shailesh *(Parliamentary Under-Secretary of State for Justice)*

Mark Oxborough, *Committee Clerk*

† attended the Committee

First Delegated Legislation Committee

Tuesday 14 January 2014

[Mr Adrian Sanders *in the Chair*]

Draft Civil Legal Aid (Merits Criteria) (Amendment) (No. 2) Regulations 2013

2.30 pm

The Parliamentary Under-Secretary of State for Justice (Mr Shailesh Vara): I beg to move,

That the Committee has considered the draft Civil Legal Aid (Merits Criteria) (Amendment) (No. 2) Regulations 2013.

The Chair: With this it will be convenient to consider the draft Costs in Criminal Cases (Legal Costs) (Exceptions) Regulations 2013.

Mr Vara: It is a pleasure to serve under your chairmanship this afternoon, Mr Sanders.

The Civil Legal Aid (Merits Criteria) (Amendment) (No. 2) Regulations 2013 will amend the Civil Legal Aid (Merits Criteria) Regulations 2013. They will amend the merits criteria that apply in applications for civil legal aid to prevent the funding of cases assessed as having a borderline prospect of success. It is important to note that the regulations will affect only certain applications for a specific form of service.

The Costs in Criminal Cases (Legal Costs) (Exceptions) Regulations 2013 will amend the Prosecution of Offences Act 1985 to provide that acquitted defendants who have been found to be ineligible for legal aid as a result of the new Crown court financial eligibility threshold of £37,500 or more annual disposable household income can receive a payment from central funds in respect of their private defence costs.

I will take the instruments one at a time, starting with the draft Civil Legal Aid (Merits Criteria) (Amendment) (No. 2) Regulations. Their purpose is to prevent cases that are assessed as having a borderline prospect of success from receiving civil legal aid. In order to be funded, civil legal aid cases must pass the applicable merits test, which is set out in the Civil Legal Aid (Merits Criteria) Regulations 2013. The aim of the test is to ensure that funding is targeted at the cases that most justify it. The prospect of success test is just one element of the overall merits criteria that civil legal aid cases are subject to, but it is nevertheless an important element.

Not all applications are subject to a prospect of success test. Only applications for full representation—a specific form of civil legal aid service—are directly subject to such a test. Applications for legal help—the advice and assistance level of legal aid—and other types of service will not be subject to that test. Moreover, there are certain categories of case, such as certain family and mental health cases, in which the test does not apply. It is important to note that such cases will not be affected by the regulations.

However, where the prospect of success test applies, its purpose is to ensure that taxpayer's money is targeted at the cases that most justify it. It also ensures that weak cases are not funded. Currently, certain cases assessed as having a borderline prospect of success can be funded in limited circumstances. The regulations being considered today will remove funding for cases assessed as having a borderline prospect of success.

Concerns have been raised regarding our policy on such cases. Let me deal with a couple of them straight away. I recognise that there is some unease about the effect that the regulations might have on the development of case law and the funding of test cases or cases with the potential to advance common law. While I understand the root of that concern, I do not agree with it. To grant legal aid for the development of case law is not sufficient justification for legal aid to be granted in cases that do not, at the start, have at least a 50% prospect of success. Moreover, I do not think that our proposal will hinder or prevent the development of case law. It is highly likely that, in those circumstances, the arguments are likely to be strong for such a development to be warranted.

There were also concerns, in response to our consultation, about cases where there is a lack of evidence at the time when a prospect of success assessment is made. Again, I think a lot of those concerns are misplaced, and I hope to offer some reassurance on that point.

We are making no change to the availability of legal aid for cases where the prospects of success are categorised as being unclear. That is where a reliable estimate of prospects cannot be made, but where, in all the circumstances of the case, there are identifiable investigations that could be carried out that would allow such an estimate to be made. The regulations will not alter the position of civil legal aid for unclear cases, so where it is currently available to allow investigations to be carried out, it will continue to be so. We consider this to be a reasoned and proportionate reform.

The purpose of the draft Costs in Criminal Cases (Legal Costs) (Exceptions) Regulations 2013 is to introduce an additional exception to section 16A of the Prosecution of Offences Act 1985 and the general rule that a defendant's costs order may not require payment out of central funds in respect of the accused's legal costs. The amendment allows acquitted Crown court defendants ineligible for legal aid as a result of the new threshold to apply for a defendant's costs order and to receive a payment from the central funds in respect of their private defence costs at legal aid rates. This is in line with the changes made in respect of acquitted defendants in the magistrates court, which were approved by Parliament during the passage of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

The Prosecution of Offences Act makes a number of provisions in relation to costs in criminal cases, including in relation to defence costs. Section 16A in relation to legal costs provides certain exceptions to the general rule that a defendant's costs order may not require the payment out of central funds of an amount in respect of the accused's legal costs.

The draft instrument under consideration today makes provision for an additional exception under section 16A. It allows acquitted Crown court defendants, ineligible for legal aid as a result of the new threshold, to receive a payment from central funds in respect of their legal costs. Such defendants would be reimbursed at the rates

and scales set by the Lord Chancellor in guidance, as provided for by regulation 7(6) of the Costs in Criminal Cases (General) Regulations 1986. As a general rule, those would be the same as legal aid rates and scales.

The amendments introduced by this instrument are an important element of the introduction of a financial eligibility threshold in the Crown court, to ensure that the wealthiest defendants are no longer automatically provided with legal aid up front at public expense. The threshold has been set at a level at which the majority of defendants should be able to pay the defence costs of Crown court cases privately, as set out in the "Transforming Legal Aid: Next Steps" response paper.

There will be a review mechanism to ensure that those individuals who really cannot pay their defence costs privately are able to be represented in court. This will be similar to the existing hardship scheme in the magistrates court. As I have outlined, the intention is that acquitted defendants will received a payment from central funds at rates and scales set by the Lord Chancellor.

Our proposal to remove funding for cases with borderline prospects of success is the right thing to do. We estimate that the borderline proposal will save around £1 million annually. However, our motivation for the change concerning borderline cases is not simply to save money. We have been clear about that throughout. The value of our legal aid system cannot just be calculated in pounds and pence. Legal aid is a vital plank of our justice system, and goes to the heart of what a civilised society stands for. I do not think anyone here today would disagree with that, but it is important that we target resources at the cases that really justify them, and make sure that the system is fair for taxpayers, as well as those who need to use it. We believe it is important that the public have real confidence in the scheme. It cannot be justified that taxpayers' hard-earned money should be spent on cases that a private-paying citizen of reasonable means would not wish to pursue, because he feels that the case is not strong enough, and so it cannot be right for the state to spend taxpayers' hard-earned money on such cases. My view is clear: it cannot be justified and it is not. That is why we are making this change.

As to our proposals on criminal costs, the Government believe it is right to include an additional exception to allow acquitted Crown court defendants, ineligible for legal aid as a result of the new threshold, to receive a payment from central funds in respect of their legal costs. Even though that will cost the public purse at a time of significant pressure on departmental budgets, it is a fair change to make, given that such defendants will need to pay privately.

2.40 pm

Mr Andy Slaughter (Hammersmith) (Lab): It is a pleasure to be here under your chairmanship, Mr Sanders.

We have no objection to taking the two sets of regulations together, although it is hard to see what links them other than the fact that they are among many items of secondary legislation listed in the second consultation document—the second part of "Transforming Legal Aid: Next Steps". It seems a curious way to legislate—a way of avoiding the primary legislation that significant changes to the legal aid system, and other changes, should have merited. Instead we get consultation documents that are cut off in their prime; further consultation documents, to which there has not yet been a response; and a raft of secondary legislation that is difficult to keep up with.

To deal briefly with the draft Costs in Criminal Cases (Legal Costs) (Exceptions) Regulations 2013, I do not have a lot to say on them; we shall not oppose them. I am reminded of the scrutiny of section 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The Government decided in their wisdom to reverse the burden of proof, if I may put it that way, that had persisted under the Administration of Justice Acts: instead of people getting legal aid except in certain cases, they would not get it, subject to certain exceptions. That is what is being attempted in the present case.

The Government do not think things through, however, and there are unintended consequences that they must mitigate, which is what they are doing now. The whole matter becomes complicated. We are told there will be savings of, I think, £2 million, from the statutory instrument in question. I suspect—time will tell whether I am correct—that the procedure will be so convoluted that claims will not be made, and people who should receive costs will not get them; or there will be repeated costs applications, and the forecast savings will not be achieved. We shall see; the Government are setting out their stall and I do not want to say more on the matter.

I have rather more to say about the draft Civil Legal Aid (Merits Criteria) (Amendment) (No. 2) Regulations 2013. I was disappointed by the Minister's opening remarks. He asserted that there was good reason for getting rid of legal aid for borderline cases, but I did not near any evidence about it. I will present some evidence that goes the other way; then perhaps he will respond.

There is no separate consultation on either of the statutory instruments. We are asked to look at the consultation "Transforming Legal Aid" as originally set out; and of course the regulations before us relate to only one small part of the response to that. Only 100 cases a year are affected, representing £1 million, which is not a large sum out of the overall legal aid budget. Nevertheless one would hope that the statutory instrument would be clear.

The Minister has probably seen the 21st report of the Secondary Legislation Scrutiny Committee, which is highly critical—as the Committee has been of most of the sets of regulations covered by the consultation document. It states:

"the House may wish to consider whether it is appropriate to exclude someone from legal aid where the issue turns on a disputed point of law, circumstances in which the advice of a skilled lawyer is most necessary. The definition of "borderline" has not changed from the previous Regulations but the use to which it is being put has. Previously dispute over law or expert evidence was grounds for including a weaker case in the scope of legal aid and enabling someone to obtain better advice, now such cases are to be excluded from support. The House may wish to ask the Minister to clarify how the policy will work in practice."

The Opposition would certainly make that request to the Minister.

This is a matter of concern. Lord Goodlad, the Chair of the Secondary Legislation Scrutiny Committee, sent a letter to the Minister on 19 November in which he said that

"the Explanatory Memoranda attached to the various instruments"—

the statutory instruments—

[Mr Andy Slaughter]

"laid by the Ministry of Justice have in the view of the Committee been less than satisfactory…the first two paragraphs of section 7, the consultation outcome, the guidance and impact sections"—

are the same in every case.

"However sensible this might be as a background approach it needs in our view better tailoring to the content of the individual instrument…the function of an EM is to provide a self-contained summary of the policy objective of that particular item of legislation and why it is being put forward. This should be accessible without extensive research.

The explanation is also supposed to be in plain English…the Committee would be grateful if you could ensure that the Memoranda for any further instruments…are more easily accessible to the non-expert reader and clearly state the rationale for the particular policy change proposed in that instrument."

In reply, the Minister did modify two instruments, although not those under discussion, so he clearly accepted some of that criticism. That criticism is well made, because if the Government intend to legislate by a series of statutory instruments rather than by primary legislation, they should at least have the courtesy to present them in a clear and comprehensible manner. That was not the case in respect of the instruments before the Committee and, with all due respect to the Minister, that was not the case when he made his opening speech today.

At Justice questions on 8 October, the hon. Member for Chippenham (Duncan Hames) asked the Secretary of State:

"The most difficult questions for a judge to consider must include those cases whose chances of success may be deemed borderline. Where does that leave important questions such as those posed by my late constituent Tony Nicklinson, who had locked-in syndrome and sought the right to die? Would the Minister deny legal aid to him and others who survive him?"

The Secretary of State replied:

"Every case must be judged on its own merits. We cannot provide legal aid for every possible case that can be pursued, but we will retain a system that provides legal aid in cases in which the courts and the Legal Aid Agency, which judge the entitlement to legal aid, think it is appropriate to do so. "—[*Official Report*, 8 October 2013; Vol. 568, c. 20.]

I am afraid that response shows no understanding of the function of borderline case. I shall cite three examples to try to illustrate what the Secretary of State simply did not understand when he answered that very sensible question from the hon. Gentleman. Even if the Under-Secretary does not want to reply on those specific cases, I hope he will be able to respond to my points. One case absolutely on point is that of Smith and another and the Ministry of Defence, and two others that were joined with that case. Those cases related to claims brought by the families of those killed in poorly armoured Snatch Land Rover vehicles in the Iraq conflict.

Two of the claimants, Smith and Ellis, were of very limited means and in receipt of legal aid. One of the claimants, Colin Redpath—the Minister will understand the relevance of the example in a moment—was not financially eligible and therefore was represented by the same well-known firm of Hodge Jones and Allen under a conditional fee arrangement. At an early stage in the claim, the MOD applied to strike out the cases on the basis that soldiers on active service were outside the jurisdiction of the European convention on human rights and that the MOD owed the soldiers no duty of care on the battlefield, and that their claims under the Human Rights Act would fail and should be struck out.

The strike-out application was heard in the High Court and was appealed up to the Court of Appeal and the Supreme Court. Both parties won and lost aspects of the case in the earlier stages. The claimants' solicitors applied to extend the legal aid funding to cover the Supreme Court appeal. The then Legal Services Commission, now the Legal Aid Agency, decided that the merits were borderline, but that funding should be granted on public interest grounds. The claimants' solicitors applied, on behalf of the third claimant, to the after-the-event insurer who insured Redpath to extend funding to cover the Supreme Court appeal. It refused to do so, on the basis that it felt it was too risky. Clearly, ATE insurers do not consider public interest, and that decision was purely economic. Therefore, that claim was stayed, although by agreement the outcome would follow that of the other claims, which went forward.

The case of Smith and others *v.* Ministry of Defence is a test case on the issue of combat immunity and the application of the Human Rights Act, including arguments on whether the courts should interfere in matters that are within the political and military sphere. It was hugely significant and the Supreme Court decision reversed the Court of Appeal decision in relation to the convention's claims. The claimants won, so the cases have been remitted to the High Court for trial on their own facts. This was truly a borderline case in terms of merits because it was untested water. Without legal aid, this case could not have been heard in the Supreme Court and therefore the courts would be labouring under the wrong interpretation of the law as it applies in such cases. It is impossible to rely on alternative sources of funding for such cases, because insurers do not take public interest into account.

Leaving aside the changes that have been made to conditional fee agreements under LASPO, which make CFA cases so much more difficult to bring, I take exactly the opposite view to the view that the Minister takes. My view is that borderline cases often are cases of great legal significance. They are not only cases, as was clearly true in Smith and others *v.* Ministry of Defence, of life and death and of clear and absolute significance, but cases that have strong implications for human rights. The case of Smith and others *v.* Ministry of Defence would never have been heard if borderline cases were unable to be heard.

I do not know whether the Minister asked his officials to dig out some of the specific responses on borderline cases that were within the overall responses to the "Transforming Legal Aid" proposals. I hope that he did. I will just mention two of them. One was the response from Bindmans, which is one of the leading firms of solicitors in this country in this field and which has carried out a number of cases. It made the point, which I have already made myself, that there was not clear evidence—either in what the Government set out in their consultation or indeed in the impact statement—to assess either how the savings figures had been reached or to show why the Government had not applied legal aid to borderline cases. Bindmans said that the Government did not look at either the potential costs of miscarriages of justice or the potential costs of delays and adjournments caused by litigants in person taking up these cases, as these cases often are desperate cases. Indeed, there is also the fact that the Government will presumably

continue in such cases, if they run, to be represented by eminent and expert lawyers, and thus we have an uneven playing field.

The Government have observed, by way of mitigation, that perhaps defendant bodies—in other words, principally the Government themselves—would be prepared to negotiate. However, it is against the experience of most claimants that public bodies ever sit down and negotiate at an early stage. The Government have also said that the alternative dispute resolution might be an option; again, that is a fanciful suggestion. They have also put forward the argument that cases may be funded privately, but these claimants would not be applying for legal aid in the first place if they had the ability to fund cases privately, and as I have said the lack of availability of CFAs means that it is very unlikely that CFA cases will happen.

The submission from Bindmans says:

"'Borderline cases' often constitute seminal test cases in which the courts have clarified some of the most difficult issues, for example the right to die with dignity, the ban on gay people serving in the army, systemic abuse by armed forces, and whether soldiers serving overseas should be protected by the Human Rights Act. In a jurisdiction without a written Constitution or codified laws, and in which law is thus based on and developed through case law, such test cases are an essential part of the legal system."

Again, I fundamentally disagree with what the Minister says. Borderline cases are often some of the most important cases in extending case law. It is exactly right that that should be in our legal system.

Bindmans acted, for example, in the cases of Purdy and Nicklinson, two cases on the right to die; in the case of Savage *v.* South Essex Partnership NHS Trust, which was about the duty of care to detained patients; and in R (JL) *v.* Secretary of State for Justice, which was about the scope and extent of the state's duty to investigate when things go wrong in circumstances where the state has taken away a subject's liberty. That case was about an attempted suicide by a young man in Feltham young offenders' institution.

Bindmans also acted in R (FB) *v.* DPP, which was a judicial review of a decision made by the Director of Public Prosecutions on the grounds of irrationality, when it dropped a serious assault charge because, in its view, the victim suffered from mental illness. Those are only a few of the cases cited in the submission. I will not go over them in detail or cite any others, but they give an idea of the importance of the areas of law that are covered in borderline cases.

The other submission that I will briefly refer to is that of Richard Drabble QC, specifically on the point of borderline cases. Mr Drabble is counsel of almost 40 years' calling and almost 20 years as Queen's counsel. Having acted for both the Executive and claimants, he said that, often, cases arise that turn out to be borderline cases where previously the law had been thought to be settled.

Mr Drabble cited, for example, the case of Edison, which was about the formula rating regime and unlawful double taxation. The Court of Appeal had split 2:1 in the Executive's favour, and the Lords split 3:2 in the Executive's favour. He said that given that history and

"the quality of the dissents I do not see how the Executive could ever have been properly advised that the case was anything other than 'borderline'."

He also cited the case of Anufrijeva. The issue there was

"whether a benefit decision could properly be regarded as being finally made before it was made public. The Court of Appeal held that it was bound by earlier authority to decide against the claimant. The House of Lords decided 4:1 in her favour…The lower courts (and the DWP)"—

and indeed the Court of Appeal—

"had become wedded to a view of the law which the majority of the Lords ultimately held to be constitutionally improper."

That is Mr Drabble's point: the issue is not just a point in relation to individual cases, but a point with constitutional significance. He said:

"I would be startled (and saddened) if it accepted a principle that it would not appeal or defend a decision with large resource and public interest implications because of a mathematical assessment of the odds of success by its"—

the Government's—

"advisers. It would expose itself to the risk of the law fossilising behind an adverse decision at the High Court or Court of Appeal level despite a very strong sense of unease that the law was taking a wrong turning."

If that is right—if that is the approach that the Government quite properly take, where they wish to overturn a decision—Mr Drabble says:

"There is no reason for not applying the same approach to cases brought by claimants."

He continued:

"If implemented, these proposals threaten to produce a situation in which the Executive can always access the higher courts if the lower courts establish a proposition which it wishes to challenge on appeal; but claimants do not have the same ability. The system will or may become institutionally 'pro-Executive'…Without public funding, the ability of a Government Department to prevent an appeal from an Executive success before the lower tribunal by threatening to seek costs if the claimant/appellant loses his appeal is considerable…Thus the problem this response tries to grapple with is not solved by the claimant's lawyers acting pro bono".

In other words, not only will it be much more difficult for a claimant to bring a case, but, even if they can obtain a conditional fee agreement or find counsel who will act pro bono, they will be put off by the risk of being ordered to pay costs if the Government threaten to enforce that. Other than in the Aarhus jurisdiction, that is likely to be the case.

I will not cite any further examples. I hope that I have said enough to show that we have real reservations. Yes, this is only 100 cases a year, but perhaps that is a point against the Government—why do they wish to use a sledgehammer? The fear must be that the Government find cases such as those I have cited difficult to deal with and uncomfortable, so they would rather they were not brought forward. I say the opposite: they are exactly the type of cases that are necessary for good government and to test the existing law.

I ask the Minister, genuinely, to think again in the light of the submissions made in response to the consultation, the cases I have cited, what the Secondary Legislation Scrutiny Committee has said about how the measure was brought forward and the relatively small saving that the Government believe they will achieve. The Minister has said that it is not about the money, but about the principle. He is absolutely wrong on the principle, so I ask him to say in response whether the Government will take the draft regulations away and look at them again.

3.1 pm

Mr Vara: I thank the hon. Member for Hammersmith (Mr Slaughter) for his contribution. I am sorry that I was not able to persuade him of the arguments that I put forward earlier, but I hope that by reiterating some and by addressing some of the issues he has raised I might be able to persuade him now.

The hon. Gentleman said that borderline cases should basically remain as they are. However, there is a fundamental principle, which is that if the reasonable person would not pursue a case because they felt that its merits were of a borderline nature and if that private individual would not want to fund it because they did not think the evidence was strong, there is a strong argument to say that spending taxpayers' money on such a case cannot be justified.

Mr Slaughter: That is clearly the difference between us. My argument is that the criterion used is public interest. Does the Minister not accept that many such cases—whether successful or not, although many are successful—are brought in the public interest?

Mr Vara: The hon. Gentleman touches on the next point that I was to make. Many of the cases to which he refers were strong in their own right. I am confident that where there is what might be described as a "borderline case"—which might be a test case—the likelihood is that the arguments presented at the outset would be of a sufficiently strong nature to make the likelihood of success more than 50%.

The hon. Gentleman made reference to comments by the Lords' Secondary Legislation Scrutiny Committee. The Committee spoke of the need for existing borderline case criteria to continue, to allow for test cases or necessary interpretation of the law, but I simply repeat my point. Where there are such cases, it is likely that the evidence will be strong and there will not be an issue of their being borderline cases in their own right. I recognise that we are talking about 100 cases, as he says, which is not a substantial number. Test cases—to the extent that there will be any—should have the evidence speaking for itself.

The hon. Gentleman mentioned comments by the noble Lord Goodlad criticising some of the wording used by the Department, but we very much took the criticisms on board. The irony is that, on the one hand, the Government are accused of not listening, but on the other hand, when they do listen, they are criticised nevertheless. The hon. Gentleman might like to reflect on the fact that when his party was in office, its Government were not immune from making the odd error either—in fact, they made quite a few rather large errors, rather than simply failing to tidy up explanatory memorandums.

The hon. Gentleman refers to various specific cases. He and the rest of the Committee appreciate that I cannot comment on individual cases, but the merits test is a fundamental part of the legal aid scheme and has been for many years. Let me remind him that it was, dare I say it, part of the scheme when his party was in government. Nothing has changed in that respect.

The hon. Gentleman said that the impact assessment is insufficient, but the impact assessment on the consultation paper estimated that approximately 100 fewer cases each year would be funded, as we have noted, saving about £100 million, as we have also noted. As was made clear in the methodology, those are rounded figures, and further supporting data, consisting of a breakdown by category of law, have been included in the updated impact assessment, which was published with the consultation response. I suggest that the hon. Gentleman should refer to that.

The hon. Gentleman said that the reforms were creating an uneven playing field. To put it very simply, the merits test is designed to ensure that only sufficiently meritorious cases are funded. Cases that are within the scope of the scheme, where the means and merits tests are met, will be funded. That is a long-standing principle.

The Government do not believe that it is fair or justified that taxpayers' money should be spent on cases that do not have at least a 50% prospect of success. We do not want that possibility to continue, and the draft instrument will prevent cases with borderline prospects from qualifying for legal aid.

The introduction of a financial eligibility threshold in the Crown court will prevent legal aid from being provided automatically to the wealthiest defendants at public expense. If a person can afford to pay for the costs of his or her defence privately, they should do so. However, we believe that it is fair that acquitted defendants affected by the threshold should be able to apply for a payment from central funds in respect of private defence costs incurred in those Crown court proceedings. The draft instrument will allow that.

I commend the draft regulations to the Committee.

Question put.

The Committee divided: Ayes 10, Noes 5.

Division No. 1]

AYES

Bradley, Karen	Leadsom, Andrea
de Bois, Nick	Lloyd, Stephen
Gilbert, Stephen	Randall, rh Sir John
Hollingbery, George	Skidmore, Chris
Kwarteng, Kwasi	Vara, Mr Shailesh

NOES

Ainsworth, rh Mr Bob	Slaughter, Mr Andy
Denham, rh Mr John	
Phillipson, Bridget	Smith, rh Mr Andrew

Question accordingly agreed to.

Resolved,

That the Committee has considered the draft Civil Legal Aid (Merits Criteria) (Amendment) (No.2) Regulations 2013.

DRAFT COSTS IN CRIMINAL CASES (LEGAL COSTS) (EXCEPTIONS) REGULATIONS 2013

Resolved,

That the Committee has considered the draft Costs in Criminal Cases (Legal Costs) (Exceptions) Regulations 2013.—*[Mr. Vara.]*

3.9 pm

Committee rose.