



Children and Young People (Scotland) Act 2014

2014 asp 8

PART 17

OTHER REFORMS

Children's legal aid

92 Power of Scottish Ministers to modify circumstances in which children's legal aid to be made available

- (1) The Legal Aid (Scotland) Act 1986 is amended as follows.
- (2) The title of section 28L becomes “ **Power of Scottish Ministers to extend or restrict types of proceedings before children's hearings in which children's legal aid to be available** ”.
- (3) After section 28L, insert—

“28LA Power of Scottish Ministers to provide for children's legal aid to be available to other persons in relation to court proceedings

- (1) The Scottish Ministers may by regulations modify this Part so as to—
 - (a) provide that children's legal aid is to be available, in relation to a type of court proceedings under the 2011 Act, to a person to whom it is not available by virtue of section 28D, 28E or 28F,
 - (b) vary any availability provided by virtue of paragraph (a), or
 - (c) remove any availability provided by virtue of paragraph (a).
- (2) If regulations are made making children's legal aid available to a child, the regulations must include provision requiring the Board to be satisfied that the conditions in subsection (3) are met before children's legal aid is made available.
- (3) The conditions are—

Changes to legislation: There are currently no known outstanding effects for the Children and Young People (Scotland) Act 2014, Cross Heading: Children's legal aid. (See end of Document for details)

- (a) that it is in the best interests of the child that children's legal aid be made available,
 - (b) that it is reasonable in the particular circumstances of the case that the child should receive children's legal aid,
 - (c) that, after consideration of the disposable income and disposable capital of the child, the expenses of the case cannot be met without undue hardship to the child, and
 - (d) if the proceedings are an appeal to the sheriff principal or the Court of Session under Part 15 of the 2011 Act, that the child has substantial grounds for making or responding to the appeal.
- (4) If regulations are made making children's legal aid available to a person other than a child, the regulations must include provision requiring the Board to be satisfied that the conditions in subsection (5) are met before children's legal aid is made available.
- (5) The conditions are—
- (a) that it is reasonable in the particular circumstances of the case that the person should receive children's legal aid,
 - (b) that, after consideration of the disposable income and disposable capital of the person, the expenses of the case cannot be met without undue hardship to the person or the dependants of the person, and
 - (c) if the proceedings are an appeal to the sheriff principal or the Court of Session under Part 15 of the 2011 Act, that the person has substantial grounds for making or responding to the appeal.”.

Annotations:

Commencement Information

II S. 92 in force at 28.11.2016 by S.S.I. 2016/254, art. 3(2)(a)

Changes to legislation:

There are currently no known outstanding effects for the Children and Young People (Scotland) Act 2014, Cross Heading: Children's legal aid.