



# Legal Aid Act 1988

## CHAPTER 34

### LEGAL AID ACT 1988

#### PART I

##### PRELIMINARY

- 1 Purpose of this Act.
- 2 Interpretation.

#### PART II

##### LEGAL AID BOARD AND LEGAL AID

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- 4 Powers of the Board.
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- 6 Board to have separate legal aid fund.
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- 9 Availability of, and payment for, advice and assistance.
- 10 Financial limit on prospective cost of advice or assistance.
- 11 Payment for advice or assistance otherwise than through legally assisted person's contribution.
- 12 Limit on costs against person receiving assistance by way of representation.
- 13 Costs of successful unassisted parties.

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### **PART IIIA**

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- 13A Scope of this Part.
- 13B Provision and availability of mediation.
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- 18 Costs of successful unassisted parties.

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- 21 Availability of representation under this Part.
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- 23 Reimbursement of public funds by contributions.
- 24 Contribution orders: supplementary.
- 25 Payment of costs of representation under this Part.
- 26 Payment for advice or assistance where representation under this Part is subsequently granted.

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#### LEGAL AID IN SPECIAL CASES

##### *Care proceedings*

- 27 Representation in care proceedings: scope and competent authorities.
- 28 Care proceedings: availability.

##### *Contempt proceedings*

- 29 Representation in contempt proceedings.

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- 30 Supplementary.

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- 34 Regulations.
- 35 Advisory Committee.
- 36 Orders and regulations: general.
- 37 Laying of Board's annual reports before Parliament.
- 38 Restriction of disclosure of information.
- 39 Proceedings for misrepresentation etc.
- 40 Adaptation of rights of indemnity in cases of advice, assistance or representation in civil proceedings.
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- 44 Scottish provisions.

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- 46 Amendments of Legal Aid Act 1974 pending repeal.
- 47 Short title, commencement and extent.

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## SCHEDULES

### SCHEDULE 1 —

#### *Incorporation and Status*

- 1 The Board shall be a body corporate.
- 2 The Board shall not be regarded as the servant or...

#### *Tenure of Members*

- 3 Subject to paragraphs 4 and 5 any member of the...
- 4 (1) The chairman or a member may resign office by...
- 5 The Lord Chancellor may terminate the appointment of a member...

#### *Members' interests*

- 6 (1) Before appointing a person to be a member of...
- 7 (1) A member of the Board who is in any...

#### *Remuneration of members*

- 8 (1) The Board may— (a) pay to its members such...

#### *Staff*

- 9 (1) The Board shall appoint a person to be the...
- 10 (1) The Board shall make, in respect of such of...

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### *Proceedings*

- 11 (1) Subject to anything in regulations, the Board may regulate...

### *Instruments*

- 12 (1) The fixing of the seal of the Board shall...

### *Allowances*

- 13 The Board may pay to the members of any committee...

## SCHEDULE 2 —

### Part I — DESCRIPTION OF PROCEEDINGS

- 1 Proceedings in, or before any person to whom a case...
  - 2 The following proceedings in a magistrates' court, namely—
  - 3 Proceedings in the Employment Appeal Tribunal.
  - 4 Proceedings in the Lands Tribunal.
  - 5 Proceedings before a Commons Commissioner appointed under section 17(1) of...
  - 6 Proceedings in the Restrictive Practices Court under Part III of...
- ### Part II — EXCEPTED PROCEEDINGS
- 1 Proceedings wholly or partly in respect of defamation, but so...
  - 2 Relator actions.
  - 3 Proceedings for the recovery of a penalty where the proceedings...
  - 4 Election petitions under the Representation of the People Act 1983....
  - 5 In a county court, proceedings for or consequent on the...
  - 5A Proceedings for a decree of divorce or judicial separation unless...
  - 5B Proceedings to the extent that they consist in, or arise...
  - 6 Proceedings incidental to any proceedings excepted by this Part of...

## SCHEDULE 3 —

### Part I — ORDERS MADE BY A COURT

#### *Collecting court*

- 1 In this Part “collecting court”, in relation to a...

#### *Enforcement proceedings*

- 2 (1) Any sum required to be paid by a contribution...
- 3 (1) Without prejudice to paragraph 2, any sum required to...
- 4 (1) Any expenses incurred by the clerk of a magistrates'...

#### *Transfer of enforcement proceedings to different court*

- 5 (1) Where in relation to any contribution order it appears...

#### *Limitations on enforcement by proceedings*

- 6 Any sum due under a contribution order shall not be...
- 7 Where a contribution order has been made in respect of...

#### *Power to defer enforcement proceedings*

- 8 The collecting court may defer recovering any sum due under...

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*Interpretation*

- 9 In this Part— (a) “relevant grant of representation ”, in...  
Part II — ORDERS MADE BY THE BOARD

*Limitations on enforcement by proceedings*

- 10 (1) Any sum due under a contribution order shall not...  
11 Where a contribution order has been made in respect of...

SCHEDULE 4 — Amendments of Legal Aid (Scotland) Act 1986 (c. 47)

Part I — *DIRECT PAYMENT OF FEES AND OUTLAYS BY LEGALLY ASSISTED PERSON*

- 1 In section 4(2) (payments out of the Scottish Legal Aid...  
2 In section 16— (a) subsection (1) is repealed;  
3 In section 17 (contributions, etc.)— (a) in subsection (1), for...  
4 In section 32 (a) (restriction on payment etc.), the words...  
5 In section 33 (fees and outlays of solicitors and counsel)...  
6 In section 36(2) (regulations), in paragraph (b) at end add—...  
Part II — *LIABILITY OF LEGALLY ASSISTED PERSON FOR EXPENSES TO BE ASSESSED IN ALL CASES*  
7 In section 18 (expenses)— (a) subsection (1) is repealed;  
8 In section 19(1) (expenses out of the Fund), for the...  
9 In section 20(1) (supplementary), for the words “sections 18 and...

Part III — *BOARD’S PROPERTY TO BE RATEABLE*

- 10 In Schedule 1, paragraph 2(4) is repealed.

SCHEDULE 5 — Minor and Consequential Amendments

*Public Records Act 1958 (c. 51)*

- 1 In Schedule 1 to the Public Records Act 1958 (definition...

*Parliamentary Commissioner Act 1967 (c. 13)*

- 2 .....

*Attachment of Earnings Act 1971 (c. 32)*

- 3 .....

*House of Commons Disqualification Act 1975 (c. 24)*

- 4 .....

*Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 5 .....

*Sex Discrimination Act 1975 (c. 65)*

- 6 In section 75(4) of the Sex Discrimination Act 1975—

*Race Relations Act 1976 (c. 74)*

- 7 In section 66(6) of the Race Relations Act 1976—

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*Child Care Act 1980 (c. 5)*

8 .....

*Magistrates' Courts Act 1980 (c. 43)*

9 .....

*Senior Courts Act 1981(c. 54)*

10 .....

*Telecommunications Act 1984 (c. 12)*

11 In section 52 of the Telecommunications Act 1984, the following...

*Prosecution of Offences Act 1985 (c. 23)*

12 .....

13 In section 20(2) of that Act, for the words “out...

14 In section 21(1) of that Act, for the definition of...

15 In section 21 of that Act, after subsection (4), there...

*Child Abduction and Custody Act 1985 (c. 60)*

16 .....

*Administration of Justice Act 1985 (c. 61)*

17 In section 40 of the Administration of Justice Act 1985...

18 .....

19 In section 44 of that Act— (a) in subsection (3),...

*Housing Act 1985 (c. 68)*

20 .....

*Family Law Act 1986 (c. 55)*

21 .....

*Criminal Justice Act 1987 (c. 38)*

22 .....

SCHEDULE 6 —

SCHEDULE 7 —

*Preliminary*

1 In this Schedule— “the 1974 Act ” means the Legal...

*The Legal Aid Fund*

2 (1) On the appointed day the legal aid fund (“the...

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*Rights, obligations and property*

- 3 (1) Subject to paragraph 2, on the appointed day all...

*Transfer of functions*

- 4 (1) Any grant of legal aid under Part I of...

*Legal aid contribution orders*

- 5 Notwithstanding their repeal by this Act, the provisions of the...

*The Board: transfers of employment*

- 6 (1) The Board shall make, not later than such date...  
7 (1) Where a person becomes an employee of the Board...  
8 (1) Any dispute as to whether an offer purporting to...  
9 (1) In the event of the Board assuming under section...

*Pensions*

- 10 Any arrangements made by the Law Society under section 19...

*Representation in affiliation proceedings: transitory provision*

- 11 Until the repeal of the Affiliation Proceedings Act 1957 by...

SCHEDULE 8 —

*Preliminary*

- 1 In this Schedule “the 1974 Act ” means the Legal...

*Regulation of charges on property*

- 2 In section 20(2)(e) of the 1974 Act (regulation of charge...

*Remuneration*

- 3 In section 39 of the 1974 Act, for subsection (3)...  
4 (1) In Schedule 2 to the 1974 Act (remuneration in...

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**Changes and effects yet to be applied to :**

- Sch. 4 para. 3(b) repealed by [1990 c. 40 Sch. 9](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act modified (prosp.) by [1996 c. 27 s. 23\(8\)](#)