



Legal Aid Act 1988

1988 CHAPTER 34

An Act to make new provision for the administration of, and to revise the law relating to, legal aid, advice and assistance. [29th July 1988]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications etc. (not altering text)

- C1 Act amended (1.1.1992) by S.I. 1991/2684, arts. 4, 5, [Schedule 1](#)
- C2 By [Criminal Justice Act 1991](#) (c. 53, SIF 39:1), s. 101(1), [Sch. 12 para.23](#); S.I. 1991/2208, art. 2(1), [Sch.1](#) it is provided (14.10.1991) that in relation to any time before the commencement of s. 70 of that 1991 Act (which came into force on 1.10.1992 by S.I. 1992/333, art. 2(2), [Sch. 2](#)) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.
- C3 Act modified (E.W.) (prosp.) by 1996 c. 27, [ss. 23\(8\)](#), 67(3) (with [Sch. 9 para. 5](#))
Act extended (22.5.2000) by S.I. 2000/1119, regs. 1, 14, [Sch. 3 Pt. 1](#)
Act applied (with modifications) (28.8.2000) by 2000 c. 25, s. 1(2), [Sch. 2 para. 8](#); S.I. 2000/2125, [art. 2](#)
Act applied (E.W.) (with modifications) (2.10.2000) by S.I. 2000/2227, [reg. 4](#)
- C4 Act: functions of the Lord Chancellor transferred to the Secretary of State (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003](#) (S.I. 2003/1887), [art. 4](#), [Sch. 1](#)
- C5 Act: functions of the Secretary of State transferred to the Lord Chancellor (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005](#) (S.I. 2005/3429), [art. 3\(1\)\(a\)](#) (with arts. 4, 5)

Status: This version of this Act contains provisions that are prospective.
Changes to legislation: Legal Aid Act 1988 is up to date with all changes known to be in force on or before 01 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PART I

PRELIMINARY

F1

Textual Amendments
F1 S. 1 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

F2

Textual Amendments
F2 S. 2 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

PART II

LEGAL AID BOARD AND LEGAL AID

F3

Textual Amendments
F3 S. 3 repealed (1.4.2001 in relation to s. 3(5)-(10) and otherwise 2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, **art. 2(c)**, **Sch.** (with transitional provisions in arts. 3-5); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

F4

Textual Amendments
F4 S. 4 repealed (1.4.2000 in relation to s. 4(5)(8) and otherwise 2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, **art. 2(c)**, **Sch.** (with transitional provisions in arts. 3-5); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

F5

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Textual Amendments

F5 S. 5 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F6

Textual Amendments

F6 S. 6 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F7

Textual Amendments

F7 S. 7 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

PART III

ADVICE AND ASSISTANCE

F8

Textual Amendments

F8 S. 8 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F9

Textual Amendments

F9 S. 9 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F10

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Textual Amendments
F10 S. 10 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F11 11

Textual Amendments
F11 S. 11 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F12 12

Textual Amendments
F12 S. 12 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F13 13

Textual Amendments
F13 S. 13 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

[^{F14}PART IIIA

MEDIATION]

Textual Amendments
F14 Pt. IIIA (s. 13A) inserted (21.3.1997) by 1996 c. 27, s. 26(1); S.I. 1997/1077, art.2

F15 13A

Textual Amendments
F15 S. 13A repealed (1.4.2000) by 1999 s. 22, s. 106, Sch 15 Pt. I (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

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^{F16}**13B**

Textual Amendments

F16 S. 13B repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

^{F17}**13C**

Textual Amendments

F17 S. 13C repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

PART IV

CIVIL LEGAL AID

^{F18}**14**

Textual Amendments

F18 S. 14 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

^{F19}**15**

Textual Amendments

F19 S. 15 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

^{F20}**16**

Textual Amendments

F20 S. 16 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

^{F21}**17**

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Textual Amendments

F21 S. 17 repealed (1.4.2000) by 1999 c. 22 s. 106, Sch. 15 Pt I (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F22 **18**

Textual Amendments

F22 S. 18 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

PART V

CRIMINAL LEGAL AID

Modifications etc. (not altering text)

C6 Pt. V (ss. 19-26) applied (with modifications) (15.3.1996) by S.I. 1996/716, **art. 24(1)(b)**
Pt. V (ss. 19-26) modified (30.9.1998 in the petty sessions areas and petty sessional divisions noted in S.I. 1998/2327, **Sch. 2** and otherwise 1.11.1999) by 1998 c. 37, s. **49(1)(j)**; S.I. 1998/2327, art. 3(2), **Sch.2**; S.I. 1999/2976, **art. 2**

F23 **19**

Textual Amendments

F23 S. 19 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

F24 **20**

Textual Amendments

F24 S. 20 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

F25 **21**

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Textual Amendments

F25 S. 21 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

F26 **22**

Textual Amendments

F26 S. 22 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

F27 **23**

Textual Amendments

F27 S. 23 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

F28 **24**

Textual Amendments

F28 S. 24 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 4 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

F29 **25**

Textual Amendments

F29 S. 25 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

F30 **26**

Textual Amendments

F30 S. 26 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

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PART VI

LEGAL AID IN SPECIAL CASES

Care proceedings

Textual Amendments

F31 S. 27 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 99(4), 108(7), **Sch.15**; S.I. 1991/828, **art. 3(2)**

Textual Amendments

F32 S. 28 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 99(4), 108(7), **Sch.15**; S.I. 1991/828, **art. 3(2)**

Contempt proceedings

^{F33}**29**

Textual Amendments

F33 S. 29 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

Supplementary

^{F34}**30**

Textual Amendments

F34 S. 30 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

PART VII

GENERAL AND SUPPLEMENTARY

^{F35}**31**

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Textual Amendments

F35 S. 31 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

^{F36}**32**

Textual Amendments

F36 S. 32 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5) and subject to an amendment (28.8.2000) by S.I. 2000/2127, **art. 4**

33 Legal aid complaints against barristers and their exclusion from legal aid work.

The following sections shall be substituted for sections 41 and 42 of the ^{MI}Administration of Justice Act 1985—

“41 Application to legal aid complaints against barristers of disciplinary provisions.

- (1) The disciplinary provisions applicable to barristers shall apply to legal aid complaints relating to the conduct of barristers as they apply to other complaints about their conduct.
- (2) Subject to any exclusion or restriction made by those provisions, any disciplinary tribunal which hears a legal aid complaint relating to the conduct of a barrister may, if it thinks fit and whether or not it makes any other order, order that any fees—
 - (a) otherwise payable in connection with his services under or in accordance with the Legal Aid Act 1988, or
 - (b) otherwise chargeable in connection with his services in respect of advice or assistance made available under Part III of that Act,shall be reduced or cancelled.
- (3) Accordingly, in so far as any of sections 9, 11, 15(6) and (7) and 25(2) of the Legal Aid Act 1988 (which relate to remuneration for legal aid work) has effect in relation to any fees reduced or cancelled by an order under subsection (2) above, it shall so have effect subject to the provisions of that order.
- (4) An appeal shall lie in the case of an order under subsection (2) above in the same manner as an appeal would lie in the case of any other order of such a tribunal.
- (5) The reference in subsection (2) above to a disciplinary tribunal is a reference to a tribunal acting under the disciplinary provisions applicable to barristers and it includes a reference to a member exercising any functions of the tribunal delegated to him.

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42 Exclusion of barristers from legal aid work.

- (1) Subject to any exclusion or restriction made by the disciplinary provisions applicable to barristers, where a disciplinary tribunal hears a charge of professional misconduct or breach of professional standards against a barrister, it may order that he shall be excluded from legal aid work, either temporarily or for a specified period, if it determines that there is good reason for the exclusion arising out of—
 - (a) his conduct in connection with any such services as are mentioned in section 40(1), or
 - (b) his professional conduct generally.
- (2) Subsection (4) of section 41 shall apply to an order under subsection (1) as it applies to an order under subsection (2) of that section.
- (3) The disciplinary provisions applicable to barristers shall include provision enabling a barrister who has been excluded from legal aid work under this section to apply for an order terminating his exclusion from such work.
- (4) In this section—
 - (a) the reference to a disciplinary tribunal shall be construed in accordance with section 41(5); and
 - (b) references to a person being excluded from legal aid work are references to his being excluded from those who may be selected or assigned under section 32 of the Legal Aid Act 1988.”

Marginal Citations

M1 1985 c. 61.

F37 34

Textual Amendments

F37 S. 34 repealed (1.4.2000) by 1999 c. 22, s. 106, Sch. 15 Pt. I (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), Sch. (with transitional provisions in arts. 3-5)

F38 35

Textual Amendments

F38 S. 35 repealed (1.4.2000) by 1999 c. 22, s. 106, Sch. 15 Pt. I (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), Sch. (with transitional provisions in arts. 3-5)

F39 36

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Textual Amendments

F39 S. 36 repealed (1.4.2000) by 1999 c.22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F40 **37**

Textual Amendments

F40 S. 37 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F41 **38**

Textual Amendments

F41 S. 38 repealed (1.4.2000) by 1999 c.22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F42 **39**

Textual Amendments

F42 S. 39 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F43 **40**

Textual Amendments

F43 S. 40 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F44 **41**

Textual Amendments

F44 S. 41 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

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F45 **42**

Textual Amendments
F45 S. 42 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F46 **43**

Textual Amendments
F46 S. 43 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 3(b) (with transitional provisions and savings in Sch. 2 paras. 2, 5)

PART VIII

MISCELLANEOUS

Scottish provisions

44 Scottish provisions.

The ^{M2}Legal Aid (Scotland) Act 1986 shall have effect subject to the amendments specified in Schedule 4 to this Act.

Marginal Citations
M2 1986 c. 47.

Supplementary

F47 **45**

Textual Amendments
F47 S. 45 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

F48 **46**

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Textual Amendments

F48 S. 46 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

47 Short title, commencement and extent.

- (1) This Act may be cited as the Legal Aid Act 1988.
- (2) Subject to subsections (3) and (4) below, this Act shall come into force on such day as the Lord Chancellor appoints by order and different days may be appointed for different provisions.
- (3) Section 44 and Schedule 4 shall come into force on such day as the Secretary of State appoints by order and different days may be appointed for different provisions.
- (4) Sections 35 (together with the repeal of section 21 of the ^{M3}Legal Aid Act 1974) and 46 shall come into force on the date on which this Act is passed.
- (5) An order under subsection (2) or (3) above may contain such transitional and saving provisions as appear to the Lord Chancellor or, as the case may be, the Secretary of State necessary or expedient.
- (6) This Act, with the exception of sections 12(3) and 17(3), section 44 and Schedule 4 and the amendments or repeals of the enactments referred to in section 45(3), extends to England and Wales only and section 44 and Schedule 4 extend to Scotland only.

Modifications etc. (not altering text)

- C7** Power of appointment conferred by s. 47(2) partly exercised: [S.I. 1988/1361](#), 1989/288
C8 Power of appointment conferred by s. 47(3) partly exercised: [S.I. 1988/1388](#)

Marginal Citations

M3 1974 c. 4.

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SCHEDULES

^{F49}SCHEDULE 1

Textual Amendments

F49 Sch. 1 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

^{F50}SCHEDULE 2

Textual Amendments

F50 Sch. 2 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

^{F60}SCHEDULE 3

Textual Amendments

F60 Sch. 3 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

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SCHEDULE 4

Section 44.

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 Fund)—
 - (a) in paragraph (a), after the word “due ” there shall be inserted the words “out of the Fund ”.
 - (b) in paragraph (c), the words “for the purposes of this Act ” are repealed.
- 2 In section 16—
 - (a) subsection (1) is repealed;
 - (b) in subsection (2), the words “In this section and ” are repealed.

PROSPECTIVE

- 3 In section 17 (contributions, etc.)—
 - (a) in subsection (1), for the words from “by the Board ” to “the Fund ” there shall be substituted the words “to contribute to the fees and outlays incurred by them (or on their behalf) ”;
 - ^{F65}(b) subsections (3) to (8) are repealed;
 - ^{F66}(c)

Textual Amendments

F65 Sch. 4 para. 3(b) repealed (*prosp.*) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76), ss. 74(2), 75(2), Sch. 9

F66 Sch. 4 para. 3(c) repealed (26.8.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76), ss. 74(2), Sch. 9; S.I. 1991/1903, art. 3, Sch.

- 4 In section 32 (a) (restriction on payment etc.), the words “, out of the Fund ” are repealed.

PROSPECTIVE

- 5 In section 33 (fees and outlays of solicitors and counsel) in subsection (1), for the words from “out ” to the end there shall be substituted the words—

“in respect of any fees or outlays properly incurred by him in so acting—

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Changes to legislation: Legal Aid Act 1988 is up to date with all changes known to be in force on or before 01 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) by the person concerned, to the extent to which a contribution has been determined for him under section 17 of this Act;
- (b) to the extent that such fees and outlays exceed any such contribution out of the Fund in accordance with section 4(2)(a) of this Act.”

6 In section 36(2) (regulations), in paragraph (b) at end add—

“and the power to substitute different amounts for the amount specified in section 10(2) of this Act includes power to substitute different amounts in relation to different cases or classes of case”.

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;
- (b) in subsection (2), for the words “in proceedings to which this section applies”, there shall be substituted the words “in any proceedings”.

8 In section 19(1) (expenses out of the Fund), for the words “to which this section applies” there shall be substituted the words “to which a legally assisted person is party and which are finally decided in favour of an unassisted party”.

9 In section 20(1) (supplementary), for the words “sections 18 and ” there shall be substituted the word “section”.

PART III

BOARD’S PROPERTY TO BE RATEABLE

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

SCHEDULE 5

Section 45.

MINOR AND CONSEQUENTIAL AMENDMENTS

Public Records Act 1958 (c. 51)

1 In Schedule 1 to the Public Records Act 1958 (definition of public records), there shall be inserted at the end of Part I of the Table at the end of paragraph 3 the following entry—

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“Lord Chancellor’s Department. Legal Aid Board.”

Parliamentary Commissioner Act 1967 (c. 13)

F67₂

Textual Amendments

F67 Sch. 5 para. 2 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

Attachment of Earnings Act 1971 (c. 32)

F68₃

Textual Amendments

F68 Sch. 5 para. 3 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 3(b) (with transitional provisions and savings in Sch. 2 paras. 2, 5)

House of Commons Disqualification Act 1975 (c. 24)

F69₄

Textual Amendments

F69 Sch. 5 para. 4 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

F70₅

Textual Amendments

F70 Sch. 5 para. 5 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

Sex Discrimination Act 1975 (c. 65)

6 F71

Textual Amendments

F71 Sch. 5 para. 6 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 91, 93, **Sch. 4** (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)

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Race Relations Act 1976 (c. 74)

7 ^{F72}

Textual Amendments

F72 Sch. 5 para. 7 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 91, 93, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

Child Care Act 1980 (c. 5)

^{F73}8

Textual Amendments

F73 Sch. 5 para. 8 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 para. 7(2), 36(9)); S.I. 2000/774, **art. 2(c)**, **Sch.** (with transitional provisions in arts. 3-5)

Magistrates' Courts Act 1980 (c. 43)

^{F74}9

Textual Amendments

F74 Sch. 5 para. 9 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

[^{F75}Senior Courts Act 1981](c. 54)

Textual Amendments

F75 Sch. 5: the words "Senior Courts Act 1981" substituted (1.10.2009) for the words "Supreme Court Act 1981" wherever they occur by Constitutional Reform Act 2005 (c. 4), ss. 59, 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2**

^{F76}10

Textual Amendments

F76 Sch. 5 para. 10 repealed (2.4.2001) by 1999 c.22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

Telecommunications Act 1984 (c. 12)

11 ^{F77}In section 52 of the Telecommunications Act 1984, the following subsection shall be substituted for subsection (5)—

“(5) A charge conferred by subsection (4) above is subject to—

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- (a) any charge under the Legal Aid Act 1988 and any provision of that Act for payment of any sum to the Legal Aid Board;
- (b) any charge or obligation for payment in priority to other debts under the Legal Aid (Scotland) Act 1986 and any provision of that Act for payment of any sum into the Scottish Legal Aid Fund; or
- (c) any charge under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 and any provision of that Order for payment of any sum into the legal aid fund.”]

Textual Amendments

F77 Sch. 5 para. 11 repealed (25.7.2003 for certain purposes and 29.12.2003 for certain purposes) by Communications Act 2003 (c. 21), ss. 406, 411(2)(3), Sch. 19(1) (with Sch. 18); S.I. 2003/1900, art. 2(1), Sch. 1 (with arts. 3-6); S.I. 2003/3142, art. 3(2) (with art. 11)

Prosecution of Offences Act 1985 (c. 23)

F78 12

Textual Amendments

F78 Sch. 5 para. 12 repealed (2.4.2001) by 1999 c. 22, s. 106, Sch. 15 Pt. I (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 3(b) (with transitional provisions and savings in Sch. 2 paras. 2, 5)

F79 13

Textual Amendments

F79 Sch. 5 para. 13 repealed (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 5 Pt. 2; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

14 In section 21(1) of that Act, for the definition of “legally assisted person ” there shall be substituted the following—

““legally assisted person ”, in relation to any proceedings, means a person to whom representation under the Legal Aid Act 1988 has been granted for the purposes of the proceedings;”.

15 In section 21 of that Act, after subsection (4), there shall be inserted the following subsection—

“(4A) Where one party to any proceedings is a legally assisted person then—

- (a) for the purposes of sections 16 and 17 of this Act, his costs shall be taken not to include either the expenses incurred on his behalf by the Legal Aid Board or the Lord Chancellor or, if he is liable to make a contribution under section 23 of the Legal Aid Act 1988, any sum paid or payable by way of contribution; and
- (b) for the purposes of sections 18 and 19 of this Act, his costs shall be taken to include the expenses incurred on his behalf by the Legal Aid Board or the Lord Chancellor (without any deduction on account of

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any contribution paid or payable under section 23 of the Legal Aid Act 1988) but, if he is liable to make such a contribution his costs shall be taken not to include any sum paid or payable by way of contribution.”

Child Abduction and Custody Act 1985 (c. 60)

F80 16

Textual Amendments

F80 Sch. 5 para. 16 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

Administration of Justice Act 1985 (c. 61)

17 In section 40 of the Administration of Justice Act 1985 (preliminary provisions concerning legal aid complaints), for the words from the beginning of paragraph (a) to the end there shall be substituted the words “the provision for any person of services under the Legal Aid Act 1988 including, in the case of a solicitor, provision for any person of such services in the capacity of agent for that person’s solicitor. ”

[F81 18]

Textual Amendments

F81 Sch. 5 para. 18 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

19 In section 44 of that Act—
(a) in subsection (3), in the inserted subsection (2A), for the words from the beginning of paragraph (a) to the end there shall be substituted the words—
 “(a) his conduct, including conduct in the capacity of agent for another solicitor, in connection with the provision for any person of services under the Legal Aid Act 1988; or
 (b) his professional conduct generally.”;

F82

F82(b)

Textual Amendments

F82 Sch. 5 para. 19(b) and the word “and ” immediately preceding repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

Housing Act 1985 (c. 68)

F83 20

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Textual Amendments

F83 Sch. 5 para. 20 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt.I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

Family Law Act 1986 (c. 55)

^{F84}21

Textual Amendments

F84 Sch. 5 para. 21 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

Criminal Justice Act 1987 (c. 38)

^{F85}22

Textual Amendments

F85 Sch. 5 para. 22 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 3(b) (with transitional provisions and savings in Sch. 2 paras. 2, 5)

^{F86}SCHEDULE 6

Textual Amendments

F86 Sch. 6 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

^{F87}SCHEDULE 7

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Textual Amendments

F87 Sch. 7 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15, Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

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^{F91}SCHEDULE 8

Textual Amendments

F91 Sch. 8 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

Status:

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Changes to legislation:

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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\(8\)](#)