



Legal Aid (Scotland) Act 1986

1986 CHAPTER 47

PART II

ADVICE AND ASSISTANCE

10 Financial limit.

- (1) Where at any time (whether before or after advice and assistance has begun to be provided to a client) it appears to the solicitor [^{F1}or, as the case may be, adviser] that the cost of giving it is likely to exceed the limit applicable under this section—
 - (a) the solicitor [^{F2}or adviser] shall determine to what extent that advice and assistance can be provided without exceeding that limit; and
 - (b) shall not give it (or, as the case may be, not instruct counsel to provide it) so as to exceed that limit except [^{F3}, subject to subsection (4),] with the approval of the Board.
- (2) The limit applicable under this section is [^{F4}£60].
- (3) For the purposes of this section, the cost of providing advice and assistance shall be taken to consist of such of the following as are applicable in the circumstances—
 - (a) any outlays (including the fees and outlays of counsel) which may be incurred by the solicitor or his firm or incorporated practice in, or in connection with, the providing of the advice and assistance;
 - [^{F5}(aa) any outlays which may be incurred by the registered organisation (which approved the adviser) in, or in connection with, the providing of the advice and assistance;]
 - (b) any fees (not being charges for outlays) which, apart from section 11 of this Act, would be properly chargeable by the solicitor or his firm or incorporated practice in respect of the advice and assistance; and
 - [^{F6}(ba) any fees (not being charges for outlays) which, apart from section 11 of this Act, would be properly chargeable by the registered organisation (which approved the adviser) in respect of the advice and assistance;]
 - (c) in the case of advice and assistance given by a solicitor employed by the Board, any fees (not being charges for outlays) which, if the solicitor had been

Changes to legislation: Legal Aid (Scotland) Act 1986, Section 10 is up to date with all changes known to be in force on or before 19 October 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

employed by a firm of solicitors or by an incorporated practice, would, apart from section 11 of this Act, have been properly chargeable by that firm or practice in respect of the advice and assistance.

- [^{F7}(4) In the circumstances set out in subsection (5), no application may be made for the Board's approval for the cost of giving the advice and assistance—
- (a) to exceed the limit applicable under this section; or
 - (b) to that limit having been exceeded.
- (5) The circumstances are that the matter with which the advice and assistance is concerned is not—
- (a) specified as a distinct matter for the purposes of advice and assistance by virtue of regulations made under this Act; or
 - (b) being treated as if it were a distinct matter by virtue of such regulations.]

Textual Amendments

- F1** Words in s. 10(1) inserted (30.7.2007) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), [ss. 67\(4\)\(a\)\(i\)](#), [82\(2\)](#) (with s. 77); S.S.I. 2007/335, [art. 2\(a\)](#)
- F2** Words in s. 10(1)(a) inserted (30.7.2007) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), [ss. 67\(4\)\(a\)\(ii\)](#), [82\(2\)](#) (with s. 77); S.S.I. 2007/335, [art. 2\(a\)](#)
- F3** Words in s. 10(1)(b) inserted (8.2.2007) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), [ss. 69\(2\)\(a\)](#), [82\(2\)](#) (with s. 77); S.S.I. 2007/57, [art. 2\(a\)](#)
- F4** Sum in s. 10(2) substituted (1.8.1988) by S.I. 1988/1389, [reg. 2](#), and different sums substituted for different cases: (17.12.1988) by S.I. 1988/2288, [reg. 2](#); (10.1.1994) by S.I. 1993/3187, [regs. 3, 4](#) (as amended (1.5.2007) by S.I. 2007/248, [reg. 4](#))
- F5** S. 10(3)(aa) inserted (30.7.2007) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), [ss. 67\(4\)\(b\)\(i\)](#), [82\(2\)](#) (with s. 77); S.S.I. 2007/335, [art. 2\(a\)](#)
- F6** S. 10(3)(ba) inserted (30.7.2007) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), [ss. 67\(4\)\(b\)\(ii\)](#), [82\(2\)](#) (with s. 77); S.S.I. 2007/335, [art. 2\(a\)](#)
- F7** S. 10(4)(5) inserted (8.2.2007) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), [ss. 69\(4\)](#), [82\(2\)](#) (with s. 77); S.S.I. 2007/57, [art. 2\(a\)](#)

Modifications etc. (not altering text)

- C1** Pt. II (ss. 6–12) applied by S.I. 1988/2290, [reg. 3](#)

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Changes and effects yet to be applied to :

- s. 10(1)(b) words inserted by [2007 asp 5 s. 69\(2\)\(b\)](#)

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

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(2)(aba)(abb) inserted by [2007 asp 5 s. 75\(2\)](#)
- s. 4(2)(aba) word substituted by [S.S.I. 2011/235 art. 5\(2\)\(a\)](#) (This amendment comes into force immediately after the commencement of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), s. 75, see art. 2(2). That provision is still prospective.)
- s. 4(2)(abb) word substituted by [S.S.I. 2011/235 art. 5\(2\)\(b\)](#) (This amendment comes into force immediately after the commencement of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), s. 75, see art. 2(2). That provision is still prospective.)
- s. 4(2)(ba) inserted by [2007 asp 5 s. 70\(1\)](#)
- s. 4(3)(ca)(cb) inserted by [2007 asp 5 s. 75\(3\)](#)
- s. 9A9B inserted by [2013 asp 3 s. 18\(2\)](#)
- s. 10(1A)(1B) inserted by [2007 asp 5 s. 69\(3\)](#)
- s. 12C and cross-heading inserted by [2007 asp 5 s. 70\(2\)](#)
- s. 17(2C)-(2I) inserted by [2007 asp 5 s. 75\(4\)](#)
- s. 17(2DA)(2DB) s. 17(2C)(2D) renumbered as s. 17(2DA)(2DB) by [S.S.I. 2011/235 art. 5\(3\)](#) (This amendment comes into force immediately after the commencement of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), s. 75, see art. 2(2). That provision is still prospective.)
- s. 25AA(5)-(9) inserted by [2013 asp 3 s. 21](#)
- s. 25AC25AD inserted by [2013 asp 3 s. 20](#)