



Legal Aid (Scotland) Act 1986

1986 CHAPTER 47

PART II

ADVICE AND ASSISTANCE

12 Payment of fees or outlays otherwise than through clients' contributions.

- (1) ^{F1}
- (2) This section applies to any fees or outlays properly chargeable (in accordance with section 33 of this Act), in respect of advice and assistance given to a client in pursuance of this Part of this Act [^{F2}; but does not apply to the salary payable to a solicitor employed by the Board [^{F3} under sections 26 and 27 of this Act or to the salary payable to a solicitor employed by the Board]] by virtue of section 28A of this Act.
- (3) Except in so far as regulations made under this section otherwise provide, fees or outlays to which this section applies shall be paid to the solicitor [^{F4} or, as the case may be, the registered organisation,] as follows—
 - (a) first, out of any [^{F5} amount] payable by the client in accordance with section 11(2) [^{F6} or, as the case may be, section 11A(2)] of this Act;
 - (b) secondly, in priority to all other debts, out of any expenses which (by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the client by any other person in respect of the matter in connection with which the advice and assistance is provided;
 - (c) thirdly, in priority to all other debts, out of any property (of whatever nature and wherever situated) which is recovered or preserved for the client in connection with that matter, including his rights under any settlement arrived at in connection with that matter in order to avoid or bring to an end any proceedings;
 - (d) fourthly, by the Board out of the Fund, following receipt by it of a claim submitted by the solicitor [^{F7} or the registered organisation].

Changes to legislation: Legal Aid (Scotland) Act 1986, Section 12 is up to date with all changes known to be in force on or before 05 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

[^{F8}(4) In subsection (3), the reference to an amount payable by the client does not include an amount which it is for the Board to collect (whether under section 11A(3) or any regulations made under section 33ZA(1)).]

Textual Amendments

- F1** S. 12(1) repealed (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), ss. 81, 82(2), **Sch. 5 para. 2(2)** (with s. 77); S.S.I. 2008/311, **art. 2(i)**
- F2** Words in s. 12(2) inserted (1.10.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 12(4)(a)**; S.I. 1997/2323, **art. 6(2)**
- F3** Words in s. 12(2) inserted (6.7.2001) by 2001 asp 7, **ss. 9(3)**, 15(3)
- F4** Words in s. 12(3) inserted (30.7.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), **ss. 67(5)(a)**, 82(2) (with s. 77); S.S.I. 2007/335, **art. 2(a)**
- F5** Word in s. 12(3)(a) substituted (1.10.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 12(4)(b)**; S.I. 1997/2323, **art. 6(2)**
- F6** Words in s. 12(3)(a) inserted (11.10.2013) by Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3), **ss. 23(7)(a)**, 25(2); S.S.I. 2013/262, art. 2
- F7** Words in s. 12(3)(d) inserted (30.7.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), **ss. 67(5)(b)**, 82(2) (with s. 77); S.S.I. 2007/335, **art. 2(a)**
- F8** S. 12(4) inserted (11.10.2013) by Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3), **ss. 23(7)(b)**, 25(2); S.S.I. 2013/262, art. 2

Modifications etc. (not altering text)

- C1** Pt. II (ss. 6–12) applied by S.I. 1988/2290, **reg. 3**
- C2** S. 12(3) modified (7.10.1996) by S.I. 1996/2447, **reg. 5(1)(c)**
- C3** S. 12(3)(c) restricted by S.I. 1987/382, **reg. 15(1)**
 S. 12(3)(c) excluded (7.10.1996) by S.I. 1996/2447, **reg. 16(2)**
 S. 12(3)(c): power to exclude conferred (7.10.1996) by S.I. 1996/2447, **reg. 16(3)**
- C4** S. 12(3)(c): power to disapply conferred by S.I. 1996/2447, **reg. 16A** (as inserted (5.8.2020) by The Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2020 (S.S.I. 2020/191), regs. 1(3), 4)

Changes to legislation:

Legal Aid (Scotland) Act 1986, Section 12 is up to date with all changes known to be in force on or before 05 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.

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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](#)