



# Legal Aid (Scotland) Act 1986

## 1986 CHAPTER 47

### PART III

#### CIVIL LEGAL AID

##### *Expenses*

#### **17 Contributions, and payments out of property recovered.**

- (1) Legally assisted persons may be required by the board to contribute to the Fund in accordance with this section in respect of any proceedings in connection with which they are granted civil legal aid.
- (2) A legally assisted person's contribution under this section shall be determined by the Board, and may include—
  - (a) if his disposable income exceeds [<sup>F1</sup>£3,521] a year, a contribution in respect of income which shall not be more than [<sup>F2</sup>67.1%] of the excess (or such other proportion of the excess, or such amount, as may be prescribed by regulations made under this section); and
  - (b) if his disposable capital exceeds [<sup>F3</sup>£7,853], a contribution in respect of capital which shall not be more than the excess (or such proportion of the excess or such lesser amount as may be prescribed by regulations made under this section).

<sup>F4</sup>[(2A) Except in so far as regulations made under this section otherwise provide, any sum of money recovered under an award of or an agreement as to expenses in favour of any party in any proceedings in respect of which he is or has been in receipt of civil legal aid shall be paid to the Board.

- (2B) Except in so far as regulations made under this section otherwise provide, where, in any proceedings, there is a net liability of the Fund on the account of any party, the amount of that liability shall be paid to the Board by that party, in priority to any other debts, out of any property (wherever situate) which is recovered or preserved for him—

**Changes to legislation:** *Legal Aid (Scotland) Act 1986, Section 17 is up to date with all changes known to be in force on or before 08 April 2024. 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) in the proceedings; or
- (b) under any settlement to avoid them to bring them to an end.]

[<sup>F5</sup>(2C) Subsection (2D) below applies where, after applying sums paid to the Board under subsection (2A) above in respect of the expenses of any party in any proceedings—

- (a) there is a surplus in the Fund on the account of the party; and
- (b) the party received, in respect of the same proceedings, assistance from the Commission for Equality and Human Rights under section 28 of the Equality Act 2006 (power of the Commission to provide legal assistance).

(2D) The Board shall apply the surplus to pay to the Commission any sums due to it under section 29(2) of that Act (Commission's entitlement to recover expenses incurred in providing assistance) in respect of the assistance provided by it to the party.]

<sup>F6</sup>(3) .....

#### Textual Amendments

- F1** Word in s. 17(2)(a) substituted (11.4.2011) by [The Advice and Assistance and Civil Legal Aid \(Financial Conditions and Contributions\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/217\)](#), regs. 1, **4(7)** (with [reg. 3](#))
- F2** Words in s. 17(2)(a) substituted (12.4.2010 with application as mentioned in [reg. 3\(2\)](#) of the amending S.S.I.) by virtue of [The Advice and Assistance and Civil Legal Aid \(Financial Conditions and Contributions\) \(Scotland\) Regulations 2010 \(S.S.I. 2010/139\)](#), **reg. 5** (with [reg. 8](#))
- F3** Word in s. 17(2)(b) substituted (11.4.2011) by [The Advice and Assistance and Civil Legal Aid \(Financial Conditions and Contributions\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/217\)](#), regs. 1, **4(8)** (with [reg. 3](#))
- F4** S. 17(2A)(2B) inserted (30.9.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 76:2\)](#), s. 74(1), **Sch. 8 para. 36(6)**; S.I. 1991/1903, art. 3, **Sch.**
- F5** S. 17(2C)(2D) inserted (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), ss. 40, 93(1), **Sch. 3 para. 39(3)** (with s. 92); S.I. 2007/2603, **art. 2(d)**
- F6** S. 17(3)-(8) repealed (1.4.1989) by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), ss. 44, 45(2), Sch. 4 para. 3(b), **Sch. 6**; S.I. 1989/288, **art. 2**

#### Modifications etc. (not altering text)

- C1** S. 17 excluded by S.I. 1987/381, **regs. 46(2)(a)**, 47(2)(a)
- C2** S. 17 modified (19.9.1996) by S.I. 1996/2444, **reg. 47(2)(b)**  
S. 17 modified (1.12.2002) by [The Civil Legal Aid \(Scotland\) Regulations 2002 \(S.S.I. 2002/494\)](#), **reg. 45(2)**  
S. 17 modified (1.12.2002) by [The Civil Legal Aid \(Scotland\) Regulations 2002 \(S.S.I. 2002/494\)](#), **reg. 46(2)(a)**
- C3** S. 17(2B) excluded (7.10.1996) by S.I. 1996/2444, **reg. 33**

**Changes to legislation:**

Legal Aid (Scotland) Act 1986, Section 17 is up to date with all changes known to be in force on or before 08 April 2024. 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 :**

- s. 17(1) words substituted by [1988 c. 34 Sch. 4 para. 3\(a\)](#)
- s. 17(2)(a) words substituted by [S.S.I. 2011/217 reg. 5](#)
- s. 17(3)-(5) repealed by [1990 c. 40 Sch. 8 para. 36\(7\)Sch. 9](#) (This amendment not applied to legislation.gov.uk. S. 17(3)-(8) repealed (1.4.1989) by 1988 c. 34, Sch. 6; S.I. 1989/288, art. 2)
- s. 17(6) words substituted by [1990 c. 40 Sch. 8 para. 36\(8\)](#) (This amendment not applied to legislation.gov.uk. S. 17(3)-(8) repealed (1.4.1989) by 1988 c. 34, Sch. 6; S.I. 1989/288, art. 2)
- s. 17(8) words substituted by [1990 c. 40 Sch. 8 para. 36\(9\)](#) (This amendment not applied to legislation.gov.uk. S. 17(3)-(8) repealed (1.4.1989) by 1988 c. 34, Sch. 6; S.I. 1989/288, art. 2)
- s. 17(9)-(12) added by [1988 c. 34 Sch. 4 para. 3\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 3(c) repealed (26.8.1991) without ever being in force by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76), ss. 74(2), Sch. 9; S.I. 1991/1903,art. 3, Sch.)

**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](#)