



# Legal Aid (Scotland) Act 1986

## 1986 CHAPTER 47

### <sup>F1</sup><sup>F1</sup>PART 5A

#### CHILDREN'S LEGAL AID

#### <sup>F1</sup>28F Availability of children's legal aid: appeals relating to deemed relevant person

(1) Subsection (2) applies in relation to—

- (a) an appeal under section 154 or 163(1)(a)(iii) or (2) of the 2011 Act arising from a determination of a children's hearing mentioned in section 142(1)(a) if by virtue of section 142(4)(b) an individual is no longer to be deemed to be a relevant person,
- (b) an appeal to the sheriff under section 160(1)(a) of that Act against a determination of a pre-hearing panel or children's hearing that an individual is not to be deemed <sup>F2</sup>, or is no longer to be deemed,] a relevant person in relation to a child,
- (c) an appeal to the sheriff under section 160(1)(b) of that Act against a direction under section 142(4)(a) that an individual is no longer to be deemed a relevant person in relation to a child,
- (d) an appeal to the <sup>F3</sup>Sheriff Appeal Court] or the Court of Session under section 164(1) of that Act against a decision of the sheriff in an appeal under section 160(1)—
  - (i) confirming a determination that an individual is not to be deemed <sup>F4</sup>, or is no longer to be deemed,] a relevant person in relation to a child, or
  - (ii) quashing a determination that an individual is to be deemed <sup>F5</sup>, or is to continue to be deemed,] a relevant person in relation to a child, and
- (e) an appeal to the Court of Session under section 164(2) of that Act against a determination of the <sup>F6</sup>Sheriff Appeal Court] where the effect of the <sup>F7</sup>Sheriff Appeal Court's] determination is that an individual is not to be deemed <sup>F8</sup>, or is no longer to be deemed,] a relevant person in relation to a child.

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**Changes to legislation:** Legal Aid (Scotland) Act 1986, Section 28F is up to date with all changes known to be in force on or before 10 March 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

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- (2) Children's legal aid is available to the individual if, on an application made to the Board, the Board is satisfied—
- (a) that it is reasonable in the particular circumstances of the case that the individual should receive children's legal aid,
  - (b) that, after consideration of the disposable income and disposable capital of the individual, the expenses of the case cannot be met without undue hardship to the individual, and
  - (c) that—
    - (i) in relation to an appeal mentioned in paragraph (a) of subsection (1), the individual has substantial grounds for making or, as the case may be, responding to the appeal,
    - (ii) in relation to an appeal mentioned in any other paragraph of that subsection, the individual has substantial grounds for making the appeal.]

#### Textual Amendments

- F1** Pts. 5A, 5B inserted (31.1.2012 for s. 28B(2), s. 28M(7) for specified purposes and s. 28N) by [Children's Hearings \(Scotland\) Act 2011 \(asp 1\)](#), **ss. 191**, 206(2) (with s. 186); S.S.I. 2012/1, art. 2(1), sch.
- F2** Words in s. 28F(1)(b) inserted (26.1.2015) by [Children and Young People \(Scotland\) Act 2014 \(asp 8\)](#), s. 102(3), **sch. 5 para. 3(2)**; S.S.I. 2014/353, art. 2(2)(3), sch.
- F3** Words in s. 28F(1)(d) substituted (28.11.2016) by [The Courts Reform \(Scotland\) Act 2014 \(Relevant Officer and Consequential Provisions\) Order 2016 \(S.S.I. 2016/387\)](#), art. 1, **sch. 3 para. 1(4)(a)** (with art. 4(2))
- F4** Words in s. 28F(1)(d)(i) inserted (26.7.2021) by [Children \(Scotland\) Act 2020 \(asp 16\)](#), **ss. 26(5)(a)**, 34(2); S.S.I. 2020/412, reg. 2(2)(d)
- F5** Words in s. 28F(1)(d)(ii) inserted (26.7.2021) by [Children \(Scotland\) Act 2020 \(asp 16\)](#), **ss. 26(5)(b)**, 34(2); S.S.I. 2020/412, reg. 2(2)(d)
- F6** Words in s. 28F(1)(e) substituted (28.11.2016) by [The Courts Reform \(Scotland\) Act 2014 \(Relevant Officer and Consequential Provisions\) Order 2016 \(S.S.I. 2016/387\)](#), art. 1, **sch. 3 para. 1(4)(b)(i)** (with art. 4(2))
- F7** Words in s. 28F(1)(e) substituted (28.11.2016) by [The Courts Reform \(Scotland\) Act 2014 \(Relevant Officer and Consequential Provisions\) Order 2016 \(S.S.I. 2016/387\)](#), art. 1, **sch. 3 para. 1(4)(b)(ii)** (with art. 4(2))
- F8** Words in s. 28F(1)(e) inserted (26.7.2021) by [Children \(Scotland\) Act 2020 \(asp 16\)](#), **ss. 26(5)(c)**, 34(2); S.S.I. 2020/412, reg. 2(2)(d)

**Changes to legislation:**

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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](#)