



# Legal Aid (Scotland) Act 1986

## 1986 CHAPTER 47

### PART VI

#### MISCELLANEOUS

##### *Information*

#### **34 Confidentiality of information.**

- (1) Subject to subsection (2) below, no information furnished for the purposes of this Act to the Board or to any person acting on its behalf shall be disclosed—
- (a) in the case of such information furnished by, or by any person acting for, a person seeking or receiving legal aid or advice and assistance, without the consent of the person seeking or receiving legal aid or advice and assistance;
  - or
  - (b) in the case of such information furnished otherwise than as mentioned in paragraph (a) above, without the consent of the person who furnished it,
- and any person who, in contravention of this subsection, discloses any information obtained by him when employed by, or acting on behalf of, the Board shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (2) Subsection (1) above shall not apply to the disclosure of information—
- (a) for the purpose of the proper performance or facilitating the proper performance by the Secretary of State, the Board, any court or tribunal or by any other person or body of duties or functions under this Act;
  - [<sup>F1</sup>(aa) for the purpose of any determination or investigation by the Scottish Legal Complaints Commission under the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5) (“the 2007 Act”);]
  - (b) for the purpose of investigating, prosecuting or determining any [<sup>F2</sup>conduct complaint, remitted by the Scottish Legal Complaints Commission under section [<sup>F3</sup>6(2)(a) or 15(5)(a) of the 2007 Act]—

**Changes to legislation:** Legal Aid (Scotland) Act 1986, Section 34 is up to date with all changes known to be in force on or before 27 July 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

- (i) against a solicitor, by the Law Society or the Scottish Solicitors' Discipline Tribunal;
  - (ii) against an advocate, by the Faculty of Advocates;
  - (c) for the purpose of investigating or prosecuting any offence or for the report of any proceedings in relation to such an offence;
  - [<sup>F4</sup>(d) for the purposes of any investigation by the Scottish Public Services Ombudsman under the Scottish Public Services Ombudsman Act 2002 (asp 11)];
  - [<sup>F5</sup>(e) for the purposes of an inquiry by the Scottish Commission for Human Rights under section 8 of the Scottish Commission for Human Rights Act 2006 (asp 16)]<sup>F6</sup>;
  - (f) for the purposes of, or required by virtue of, section 50 of the Freedom of Information (Scotland) Act 2002 (asp 13)];
  - [<sup>F7</sup>(g) in pursuance of a requirement made under section 10(1) of the Adult Support and Protection (Scotland) Act 2007 (asp 10).]
- (3) For the purposes of this section, information furnished to any person in his capacity as counsel or a solicitor by or on behalf of a person seeking or receiving legal aid or advice and assistance is not information furnished to the Board or to a person acting on its behalf.

#### Textual Amendments

- F1** S. 34(2)(aa) inserted (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), ss. 81, 82(2), **Sch. 5 para. 2(5)(a)** (with s. 77); S.S.I. 2008/311, **art. 2(i)**
- F2** Words in s. 34(2)(b) substituted (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), ss. 81, 82(2), **Sch. 5 para. 2(5)(b)** (with s. 77); S.S.I. 2008/311, **art. 2(i)**
- F3** Word in s. 34(2)(b) substituted (1.1.2015) by The Scottish Legal Complaints Commission (Modification of Duties and Powers) Regulations 2014 (S.S.I. 2014/232), regs. 1(2), **3(2)** (with reg. 4)
- F4** S. 34(2)(d) inserted (23.10.2002) by Scottish Public Services Ombudsman Act 2002 (asp 11), s. 25(1), **Sch. 6 para. 9**; S.S.I. 2002/467, **art. 2**
- F5** S. 34(2)(e) inserted (1.4.2008) by Scottish Commission for Human Rights Act 2006 (asp 16), **ss. 10(5), 22(3)** (with s. 22(2)); S.S.I. 2008/112, **art. 2**
- F6** S. 34(2)(f) inserted (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), ss. 81, 82(2), **Sch. 5 para. 2(5)(c)** (with s. 77); S.S.I. 2008/311, **art. 2(i)**
- F7** S. 34(2)(g) inserted (29.10.2008) by Adult Support and Protection (Scotland) Act 2007 (asp 10), ss. 77(1), 79(3), **Sch. 1 para. 3(a)**; S.S.I. 2008/314, **art. 2**

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

- C1** S. 34(2): disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2)(a), **Sch. 4 Pt. 1 para. 26**
- C2** S. 34(2)(b) modified (13.2.2009) by The Legal Profession and Legal Aid (Scotland) Act 2007 (Transitional Provision) Order 2009 (S.S.I. 2009/17), **art. 2**

**Changes to legislation:**

Legal Aid (Scotland) Act 1986, Section 34 is up to date with all changes known to be in force on or before 27 July 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](#)