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# Legal Aid (Scotland) Act 1986

## 1986 CHAPTER 47

### PART I

#### SCOTTISH LEGAL AID BOARD

##### *The Fund*

#### **4 Scottish Legal Aid Fund.**

- (1) The Board shall establish and maintain a fund to be known as the Scottish Legal Aid Fund (in this Act referred to as “the Fund”).
- (2) There shall be paid out of the Fund—
  - (a) such sums as are, by virtue of this Act or any regulations made thereunder, due [<sup>F1</sup>out of the Fund] to any solicitor or counsel in respect of fees and outlays properly incurred by him, in connection with the provision, in accordance with this Act, of legal aid or advice and assistance;
  - (b) expenses awarded to any person under section 19 of this Act; and
  - (c) such other payments . . . <sup>F2</sup>as the Secretary of State may, with the concurrence of the Treasury, determine.
- (3) There shall be paid into the Fund—
  - [<sup>F3</sup>(a) any contribution payable to the Fund by any person in pursuance of section 17 of this Act;]
  - (b) any sum recovered under an award of [<sup>F4</sup>a court] or an agreement as to expenses in any proceedings in favour of any party who is in receipt of civil legal aid;
  - (c) any sum which is to be paid in accordance with section 17 of this Act out of property [<sup>F5</sup>(including money)] recovered or preserved for any party to any proceedings who is in receipt of civil legal aid;
  - (d) the sums to be paid by the Secretary of State in pursuance of section 40(1) (a) of this Act; and

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- (e) such other receipts of the Board as the Secretary of State may, with the concurrence of the Treasury, determine.

#### Textual Amendments

- F1** Words inserted by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 44, [Sch. 4 Pt. I para. 1\(a\)](#)
- F2** Words repealed by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), ss. 44, 45(2), [Sch. 4 Pt. I para. 1\(b\)](#), [Sch. 6](#)
- F3** [S. 4\(3\)\(a\)](#) repealed (*prosp.*) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 76:2\)](#), ss. 74(1)(2), 75(2), [Sch. 8 para. 36\(1\)\(a\)](#), [Sch. 9](#)
- F4** Words repealed (*prosp.*) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 76:2\)](#), ss. 74(2), 75(2), [Sch. 9](#)
- F5** Words inserted (*prosp.*) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 76:2\)](#), ss. 74(1), 75(2), [Sch. 8 para. 36\(1\)\(b\)](#)

VALID FROM 30/07/2007

#### [<sup>F6</sup>4A] Power of Board to make grants for certain purposes

- (1) The Board may, on an application made to it by any person, make grants of such amount and subject to such conditions (including conditions as to repayment) as it may determine to the person in respect of—
  - (a) any of the matters mentioned in subsection (2);
  - (b) any of the purposes mentioned in subsection (3).
- (2) The matters are—
  - (a) any civil legal aid or advice and assistance in relation to civil matters provided, or to be provided, by any solicitor or counsel;
  - (b) any advice and assistance in relation to civil matters provided, or to be provided, by any adviser;
  - (c) any advice, assistance or representation (not falling within paragraphs (a) or (b)) provided, or to be provided, by any person, which is connected to civil matters.
- (3) The purposes are facilitating, supporting and developing the provision of any of the matters referred to in subsection (2).
- (4) The Scottish Ministers must specify a limit to the total amount that may be paid out of the Fund by virtue of subsection (1).
- (5) In specifying any limit under subsection (4) the Scottish Ministers must specify the period in relation to which that limit applies.
- (6) Any grant made under subsection (1) must be made in accordance with an approved plan.
- (7) The Board must prepare and publish a plan as to the criteria which the Board will apply in considering whether or not to make such a grant; and the Board must submit the plan to the Scottish Ministers for approval.
- (8) The Scottish Ministers may approve a plan submitted to them under subsection (7) with or without modification.

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- (9) The Scottish Ministers may at any time—
  - (a) approve a modification of an approved plan proposed by the Board or withdraw approval of such a plan or modification;
  - (b) require the Board to prepare and publish a plan under subsection (7).
- (10) An application under subsection (1) must include such information as the Board may reasonably require.
- (11) In preparing and publishing the plan under subsection (7) the Board must do so in accordance with such directions as the Scottish Ministers may give.
- (12) Any money due to a person by virtue of this section shall be paid to the person by the Board out of the Fund.
- (13) Any money paid to a person under subsection (1) as provided in subsection (12), in respect of—
  - (a) any civil legal aid or advice and assistance provided by any solicitor or counsel;
  - (b) any advice and assistance provided by an adviser,shall be taken to be a payment in accordance with this Act; and no other payment may be made out of the Fund in respect of that civil legal aid or, as the case may be, advice and assistance.
- (14) In this section, “approved plan” means a plan approved, for the time being, by the Scottish Ministers under subsection (8); and includes any part or modification of the plan so approved.
- (15) For the purposes of this section, “person” includes a body corporate or unincorporate.]

#### Textual Amendments

- F6** S. 4A inserted (30.7.2007) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), **ss. 68(3), 82(2)** (with [s. 77](#)); [S.S.I. 2007/335](#), **art. 2(b)**

## 5 Accounts and audit.

- (1) The Board shall keep separate accounts with respect to—
  - (a) the Fund; and
  - (b) the receipts and expenditure of the Board which do not relate to the Fund, and shall prepare in respect of each financial year a statement of accounts.
- (2) The accounts shall be kept and the statement of accounts shall be prepared in such form as the Secretary of State may, with the approval of the Treasury, direct.
- (3) The accounts shall be audited by persons to be appointed in respect of each financial year by the Secretary of State in accordance with a scheme of audit approved by him, and the auditors shall be furnished by the Board with copies of the statement and shall prepare a report to the Secretary of State on the accounts and the statement.
- (4) No person shall be qualified to be appointed auditor under subsection (3) above unless he is a member of one of the following bodies—

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- (a) the Institute of Chartered Accountants of Scotland;
  - (b) the Institute of Chartered Accountants in England and Wales;
  - (c) the Chartered Association of Certified Accountants;
  - (d) the Institute of Chartered Accountants in Ireland.
- (5) Upon completion of the audit of the accounts, the auditors shall send to the Secretary of State a copy of the statement of accounts and of their report, and the Secretary of State shall send a copy of the statement and of the report to the Comptroller and Auditor General.
- (6) The Secretary of State and the Comptroller and Auditor General may inspect the accounts and any records relating thereto.
- (7) The Secretary of State shall lay before each House of Parliament a copy of every—
- (a) annual report of the Board under section 3(3) of this Act;
  - (b) statement of accounts under subsection (1) above; and
  - (c) report of the auditors under subsection (3) above.
- (8) In this section “financial year” means the period beginning with the commencement of this section and ending with 31st March next following and each subsequent period of 12 months ending with 31st March in each year.

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