

Changes to legislation: Legal Aid (Scotland) Act 1986, Part II is up to date with all changes known to be in force on or before 07 February 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

SCHEDULES

SCHEDULE 2

PART II

EXCEPTED PROCEEDINGS

1 Subject to [^{F1}section 14(1C) and] paragraph 2 below, civil legal aid shall not be available in proceedings which are wholly or partly concerned with defamation or verbal injury.

Textual Amendments

F1 Words in Sch. 2 Pt. II para. 1 inserted (8.2.2007) by Legal Profession and Legal Aid (Scotland) Act 2007, {arts. 71(3)(a)}, 82(2) (with s. 77); S.S.I. 2007/57, **art. 2(b)**

2 The making of a counterclaim for defamation or verbal injury in any proceedings shall not of itself affect the availability of legal aid to the other party ^{F2}. . . .

Textual Amendments

F2 Words in Sch. 2 Pt. II para. 2 repealed (8.2.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), **ss. 71(3)(b), 82(2)** (with s. 77); S.I. 2007/57, **art. 2(b)**

[^{F3} Civil legal aid shall not be available in relation to —
(a) election petitions under the Representation of the People Act 1983 ^{M1};
(b) simplified divorce applications under the Rules of Procedure of the Court of Session or the sheriff court;
^{F4}(c)
(d) petitions by a debtor for the sequestration of his estate under section [^{F5}2(1)(a) of the Bankruptcy (Scotland) Act 2016] .]

Textual Amendments

F3 Sch. 2 Pt. II para. 3 substituted (1.4.1993) by S.I. 1993/969, **reg. 2**
F4 Sch. 2 Pt. II para. 3(c) repealed (28.11.2016) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 5 para. 23(2)**; S.S.I. 2016/291, **art. 2, 3(1)(3), sch.**
F5 Sch. 2 Pt. II para. 3(d) words substituted (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s.237(2), sch. 8 para 10; S.S.I. 2016/294, reg. 2.

Marginal Citations

M1 1983 c. 2

Changes to legislation: Legal Aid (Scotland) Act 1986, Part II is up to date with all changes known to be in force on or before 07 February 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

- [^{F6}3A Civil legal aid shall not be available in relation to the following categories of simple procedure case (within the meaning of section 72(9) of the Courts Reform (Scotland) Act 2014) at first instance, namely—
- (a) proceedings for payment of a sum of money not exceeding £3,000 (exclusive of interest and expenses), other than—
 - (i) proceedings in respect of aliment or interim aliment, and
 - (ii) actions for personal injury,
 - (b) actions ad factum praestandum and proceedings for the recovery of possession of moveable property in which (in either case) there is included, as an alternative to the claim, a claim for payment of a sum of money not exceeding £3,000 (exclusive of interest and expenses).

Textual Amendments

- F6** Sch. 2 Pt. II paras. 3A, 3B inserted (28.11.2016) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), [sch. 5 para. 23\(3\)](#); S.S.I. 2016/291, art. 2, sch. (with art. 3(1)(3))

- 3B In paragraph 3A—
- (a) “actions for personal injury” means actions to which section 17 or 18 of the Prescription and Limitation (Scotland) Act 1973 applies, and
 - (b) “actions ad factum praestandum” includes actions for delivery and actions for implement but does not include actions for count, reckoning and payment.]

Textual Amendments

- F6** Sch. 2 Pt. II paras. 3A, 3B inserted (28.11.2016) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), [sch. 5 para. 23\(3\)](#); S.S.I. 2016/291, art. 2, sch. (with art. 3(1)(3))

- [^{F7}4 Subject to paragraph 5 below, civil legal aid shall not be available in relation to proceedings at first instance under the Debtors (Scotland) Act ^{M2}1987, [^{F8}or Part 2 or 3 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)] [^{F9}or Part 8 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3)] other than proceedings in connection with an application under section 1(1) or 3(1) of that Act [^{F10}of 1987] to a Lord Ordinary or to the sheriff in an ordinary cause.]

Textual Amendments

- F7** Sch. 2 Pt. II paras. 4, 5 added by [Debtors \(Scotland\) Act 1987 \(c. 18, SIF 45:2\)](#), ss. 98, 108(2), [Sch. 1 para. 5](#)
- F8** Words inserted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), s. [44\(a\)\(i\)](#)
- F9** Words in Sch. 2 Pt. 2 para. 4 inserted (23.11.2009) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 226, 227(3), [Sch. 5 para. 15\(a\)](#) (with s. 223); S.S.I. 2009/369, [art. 3\(2\)\(3\)](#), Sch. 1 (with art. 4)
- F10** Words inserted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), s. [44\(a\)\(ii\)](#)

Marginal Citations

- M2** [1987 c.18 \(45:2\)](#).

Changes to legislation: *Legal Aid (Scotland) Act 1986, Part II is up to date with all changes known to be in force on or before 07 February 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*

^{F11}[5 Nothing in paragraph 4 above shall preclude any third party to proceedings under the Debtors (Scotland) Act ^{M3}1987 [^{F12}or Part 2 or 3 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)] [^{F13}or Part 8 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3)] from obtaining legal aid in connection with those proceedings.]

Textual Amendments

F11 Sch. 2 Pt. II paras. 4, 5 added by [Debtors \(Scotland\) Act 1987 \(c. 18, SIF 45:2\)](#), ss. 98, 108(2), **Sch. 1 para. 5**

F12 Words inserted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), **s. 44(b)**

F13 Words in Sch. 2 Pt. 2 para. 5 inserted (23.11.2009) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 226, 227(3), **Sch. 5 para. 15(b)** (with s. 223); S.S.I. 2009/369, **art. 3(2)(3)**, Sch. 1 (with art. 4)

Marginal Citations

M3 [1987 c.18 \(45:2\)](#).

Changes to legislation:

Legal Aid (Scotland) Act 1986, Part II is up to date with all changes known to be in force on or before 07 February 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.

[View outstanding changes](#)

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](#)