



Legal Aid (Scotland) Act 1986

1986 CHAPTER 47

^{F1}[^{F1}PART 5A

CHILDREN'S LEGAL AID

^{F1}28E Availability of children's legal aid: relevant person

- (1) Subsection (2) applies in relation to—
 - (a) proceedings before the sheriff in relation to an application under section 48 of the 2011 Act (application for variation or termination of child protection order), and
 - (b) proceedings under Part 10 or 15 of the 2011 Act (other than an appeal to the [^{F2}Sheriff Appeal Court] or the Court of Session).
- (2) Children's legal aid is available to a relevant person in relation to the child to whom the proceedings relate if, on an application made to the Board, the Board is satisfied that the conditions in subsection (3) are met.
- (3) The conditions are—
 - (a) that it is reasonable in the particular circumstances of the case that the relevant person should receive children's legal aid, and
 - (b) that, after consideration of the disposable income and disposable capital of the relevant person, the expenses of the case cannot be met without undue hardship to the relevant person.
- (4) Subsection (5) applies in relation to an appeal to the [^{F3}Sheriff Appeal Court] or the Court of Session under Part 15 of the 2011 Act.
- (5) Children's legal aid is available to a relevant person in relation to the child to whom the appeal relates if, on an application made to the Board, the Board is satisfied that—
 - (a) the conditions in subsection (3) are met, and
 - (b) the relevant person has substantial grounds for making or responding to the appeal.
- (6) In this Part, “relevant person”—

Changes to legislation: *Legal Aid (Scotland) Act 1986, Section 28E is up to date with all changes known to be in force on or before 13 January 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*

- (a) has the meaning given by section 200 of the 2011 Act, and
- (b) includes a person deemed to be a relevant person by virtue of section 81(3), 160(4)(b) or 164(6) of that Act.]

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. 28E(1)(b) 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(3)(a)** (with art. 4(2))
- F3** Words in s. 28E(4) 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(3)(b)** (with art. 4(2))

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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](#)