

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: Legal Aid Act 1988, SCHEDULE 4 is up to date with all changes known to be in force on or before 18 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

SCHEDULES

SCHEDULE 4

Section 44.

AMENDMENTS OF LEGAL AID (SCOTLAND) ACT 1986 (C. 47)

PART I

DIRECT PAYMENT OF FEES AND OUTLAYS BY LEGALLY ASSISTED PERSON

- 1 In section 4(2) (payments out of the Scottish Legal Aid Fund)—
 - (a) in paragraph (a), after the word “due ” there shall be inserted the words “out of the Fund ”.
 - (b) in paragraph (c), the words “for the purposes of this Act ” are repealed.
- 2 In section 16—
 - (a) subsection (1) is repealed;
 - (b) in subsection (2), the words “In this section and ” are repealed.

PROSPECTIVE

- 3 In section 17 (contributions, etc.)—
 - (a) in subsection (1), for the words from “by the Board ” to “the Fund ” there shall be substituted the words “to contribute to the fees and outlays incurred by them (or on their behalf) ”;
 - [^{F1}(b) subsections (3) to (8) are repealed;]
 - ^{F2}(c)

Textual Amendments

- F1** Sch. 4 para. 3(b) repealed (*prosp.*) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76), ss. 74(2), 75(2), **Sch. 9**
- F2** Sch. 4 para. 3(c) repealed (26.8.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76), ss. 74(2), **Sch. 9**; S.I. 1991/1903, art. 3, Sch.

- 4 In section 32 (a) (restriction on payment etc.), the words “, out of the Fund ” are repealed.

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PROSPECTIVE

- 5 In section 33 (fees and outlays of solicitors and counsel) in subsection (1), for the words from “out ” to the end there shall be substituted the words—
- “in respect of any fees or outlays properly incurred by him in so acting—
- (a) by the person concerned, to the extent to which a contribution has been determined for him under section 17 of this Act;
- (b) to the extent that such fees and outlays exceed any such contribution out of the Fund in accordance with section 4(2)(a) of this Act.”
- 6 In section 36(2) (regulations), in paragraph (b) at end add—
- “and the power to substitute different amounts for the amount specified in section 10(2) of this Act includes power to substitute different amounts in relation to different cases or classes of case”.

PART II

LIABILITY OF LEGALLY ASSISTED PERSON FOR EXPENSES TO BE ASSESSED IN ALL CASES

- 7 In section 18 (expenses)—
- (a) subsection (1) is repealed;
- (b) in subsection (2), for the words “in proceedings to which this section applies ”, there shall be substituted the words “in any proceedings ”.
- 8 In section 19(1) (expenses out of the Fund), for the words “to which this section applies ” there shall be substituted the words “to which a legally assisted person is party and which are finally decided in favour of an unassisted party ”.
- 9 In section 20(1) (supplementary), for the words “sections 18 and ” there shall be substituted the word “section ”.

PART III

BOARD’S PROPERTY TO BE RATEABLE

- 10 In Schedule 1, paragraph 2(4) is repealed.

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Changes and effects yet to be applied to :

- Sch. 4 para. 3(b) repealed by [1990 c. 40 Sch. 9](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act modified (prosp.) by [1996 c. 27 s. 23\(8\)](#)