
STATUTORY INSTRUMENTS

1996 No. 2444

The Civil Legal Aid (Scotland) Regulations 1996

PART VII

EXPENSES

Payments out of property recovered or preserved: exceptions

33. Section 17(2B) of the Act (which requires the amount of the net liability of the Fund on account of any party to be paid by that party out of any property recovered or preserved for him) shall not apply—

- (a) in respect of any money payable—
 - (i) under a decree following on an action for aliment within the meaning of the Family Law (Scotland) Act 1985⁽¹⁾;
 - (ii) under an order for the payment of a periodical allowance under section 5 of the Divorce (Scotland) Act 1976⁽²⁾, or for the making of a periodical allowance under section 8 of the Family Law (Scotland) Act 1985;
 - (iii) under any order for the periodical payment of sums for the maintenance of any person which, by virtue of the Maintenance Orders Act 1950⁽³⁾, the Maintenance Orders (Reciprocal Enforcement) Act 1972⁽⁴⁾ or the Civil Jurisdiction and Judgments Act 1982⁽⁵⁾, may be enforced in Scotland;
 - (iv) under an order made by the Employment Appeal Tribunal or under any settlement arrived at to prevent or bring to an end proceedings in which such an order may be made;
 - (v) by way of disability working allowance, income support or family credit under section 129⁽⁶⁾, 124⁽⁷⁾ or 128⁽⁸⁾ of the 1992 Act, or an income-based jobseeker's allowance within the meaning of section 1(4) of the Jobseekers Act 1995⁽⁹⁾ but excluding any sum treated as payable by way of a jobseeker's allowance by virtue of section 26 of that Act (“an income-based jobseeker's allowance”);
 - (vi) by way of aliment or periodical allowance or periodical payment of sums by virtue of any settlement arrived at to prevent or bring to an end proceedings in which such a decree or order as is mentioned in sub-paragraphs (i) to (iii) above may be granted;

(1) 1985 c. 37.

(2) 1976 c. 39; section 5 was repealed on 1st September 1986 by Schedule 2 to the Family Law (Scotland) Act 1985 (c. 37) subject to a saving in section 28(3) of that Act.

(3) 1950 c. 37.

(4) 1972 c. 18.

(5) 1982 c. 27.

(6) Section 129 was amended by the Local Government Finance Act 1992 (c. 14), Schedule 9, paragraph 2, by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 10 and Schedule 1, paragraph 32 and by the Jobseekers Act 1995 (c. 18), Schedule 2, paragraph 33.

(7) Section 124 was amended and repealed in part by the Jobseekers Act 1995, Schedule 2, paragraph 30 and Schedule 3.

(8) Section 128 was amended by the Jobseekers Act 1995, Schedule 2, paragraph 33.

(9) 1995 c. 18.

- (vii) by way of any payment made out of the social fund under section 138 of the 1992 Act;
- (viii) by way of any housing benefit under section 130 of the 1992 Act⁽¹⁰⁾;
- (ix) by way of child support maintenance under the Child Support Act 1991⁽¹¹⁾;
- (b) to the first £2,500 of any money, or of the value of any property, recovered or preserved by virtue of—
 - (i) an order for the payment of a capital sum under section 5 of the Divorce (Scotland) Act 1976; or
 - (ii) an order for payment of a capital sum or transfer of property or an incidental order, under section 8 of the Family Law (Scotland) Act 1985⁽¹²⁾; or
 - (iii) any settlement arrived at to prevent or bring to an end proceedings in which such an order may be granted;
- (c) in respect of any articles referred to in section 16 of the Debtors (Scotland) Act 1987⁽¹³⁾ recovered or preserved from the effects of a grant of warrant sale of poided goods, or any article released in terms of an order made by the sheriff following application made to him in terms of section 23 of said Act.

⁽¹⁰⁾ Section 130 was amended by the Local Government Finance Act 1992, Schedule 9, paragraph 3 and by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 174(4).

⁽¹¹⁾ 1991 c. 48.

⁽¹²⁾ Section 8 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40), Schedule 8, paragraph 34 and by the Pensions Act 1995 (c. 26), section 167.

⁽¹³⁾ 1987 c. 18.