



Legal Aid (Scotland) Act 1986

1986 CHAPTER 47

PART VI

MISCELLANEOUS

General

40 Finance

- (1) The Secretary of State shall pay to the Board out of moneys provided by Parliament—
 - (a) such sums as are required (after allowing for payments into the Fund under paragraphs (a) to (c) and (e) of section 4(3) of this Act) to meet payments out of the Fund under this Act; and
 - (b) such sums as he may, with the approval of the Treasury, determine are required for the other expenditure of the Board.
- (2) The Secretary of State may, with the approval of the Treasury—
 - (a) determine the manner in which and times at which the sums referred to in subsection (1) (a) above shall be paid to the Board ; and
 - (b) impose conditions on the payment of the sums referred to in subsection (1) (b) above.
- (3) The Secretary of State shall pay to the Law Society in accordance with paragraph 1(2) (b) of Schedule 4 to this Act out of moneys provided by Parliament the amount required to make up any deficit in the Legal Aid (Scotland) Fund.
- (4) Any payments received by the Secretary of State from the Law Society in accordance with paragraph 1(2) (a) of Schedule 4 to this Act shall be paid by him into the Consolidated Fund.

41 Interpretation

In this Act, unless the context otherwise requires—

Status: This is the original version (as it was originally enacted).

" advice and assistance " has the meaning given to it in section 6(1) of this Act;

" assistance by way of representation " has the meaning given to it in section 6(1) of this Act;

" the Board " has the meaning given to it in section 1(1) of this Act;

" civil legal aid " has the meaning given to it in section 13(2) of this Act;

" criminal legal aid " has the meaning given to it in section 21(1) of this Act;

" the Fund " has the meaning given to it in section 4(1) of this Act;

" incorporated practice " has the same meaning as in the Solicitors' (Scotland) Act 1980 ;

" the Law Society " means the Law Society of Scotland ;

" legal aid " means civil legal aid, criminal legal aid, or legal aid given in connection with proceedings for contempt of court or proceedings under Part III of the Social Work (Scotland) Act 1968 ;

" person " does not include a body corporate or unincorporate, except where such body is acting in a representative, fiduciary or official capacity, so as to authorise legal aid or advice and assistance to be provided to such a body.

42 Disposable income and capital

- (1) In this Act " disposable income " or " disposable capital " in relation to any person means his income or, as the case may be, the amount of his capital, after making such deductions and allowances as regulations made under this section may prescribe—
- (a) in respect of maintenance of dependants, interest on loans, income tax, rates, rent and other matters for which that person must or reasonably may provide ;
 - (b) to take account of the nature of his resources,
- and does not include the subject matter of the dispute.
- (2) Regulations made under this section may make provision as to the determination of a person's income and the amount of his capital and in particular for determining whether any resources are to be treated as income or capital and for taking into account fluctuations of income, and different provision may be made for legal aid and for advice and assistance.
- (3) Except in so far as regulations made under this section otherwise provide, the resources of a person's spouse shall be treated for the purposes of this section as that person's own resources, and such regulations may also make provision, in relation to minors and pupils and other special cases, for taking into account the resources of other persons.

43 Act not to affect certain taxations etc.

Nothing in this Act shall affect the sum recoverable by virtue of—

- (a) an award of expenses in favour of a person to whom legal aid has been made available ; or
- (b) an agreement as to expenses in favour of such a person which provides for taxation,

and for the purpose of any such award or agreement, the solicitor who acted for the person in whose favour it is made shall be treated as having paid any counsel's fees.

44 Crown application

This Act shall bind the Crown.

45 Amendments, transitional provisions, savings and repeals

- (1) The enactments mentioned in Schedule 3 to this Act shall have effect subject to the amendments there specified (being minor amendments and amendments consequential on this Act).
- (2) Without prejudice to sections 16 and 17 of the Interpretation Act 1978 (effect of repeals) and section 46(3) of this Act, the transitional provisions and savings contained in Schedule 4 to this Act shall have effect.
- (3) The enactments set out in columns 1 and 2 of Schedule 5 to this Act are repealed to the extent specified in the third column of that Schedule.

46 Short title, commencement and extent

- (1) This Act may be cited as the Legal Aid (Scotland) Act 1986.
- (2) This Act, apart from this section, shall come into force on such day as the Secretary of State may, by order made by statutory instrument, appoint; and different days may be so appointed for different purposes and for different provisions.
- (3) An order under subsection (2) above may contain such transitional provisions and savings as appear to the Secretary of State necessary or expedient.
- (4) This Act, except section 18(3), extends only to Scotland.