



Legal Aid Act 1988

1988 CHAPTER 34

PART IV

CIVIL LEGAL AID

18 Costs of successful unassisted parties

- (1) This section applies to proceedings to which a legally assisted person is a party and which are finally decided in favour of an unassisted party.
- (2) In any proceedings to which this section applies the court by which the proceedings were so decided may, subject to subsections (3) and (4) below, make an order for the payment by the Board to the unassisted party of the whole or any part of the costs incurred by him in the proceedings.
- (3) Before making an order under this section, the court shall consider what order for costs should be made against the assisted party and for determining his liability in respect of such costs.
- (4) An order under this section in respect of any costs may only be made if—
 - (a) an order for costs would be made in the proceedings apart from this Act;
 - (b) as respects the costs incurred in a court of first instance, those proceedings were instituted by the assisted party and the court is satisfied that the unassisted party will suffer severe financial hardship unless the order is made; and
 - (c) in any case, the court is satisfied that it is just and equitable in all the circumstances of the case that provision for the costs should be made out of public funds.
- (5) Without prejudice to any other provision restricting appeals from any court, no appeal shall lie against an order under this section, or against a refusal to make such an order, except on a point of law.
- (6) In this section “costs” means costs as between party and party, and includes the costs of applying for an order under this section; and where a party begins to

Status: This is the original version (as it was originally enacted).

receive representation after the proceedings have been instituted, or ceases to receive representation before they are finally decided or otherwise receives representation in connection with part only of the proceedings, the reference in subsection (2) above to the costs incurred by the unassisted party in the proceedings shall be construed as a reference to so much of those costs as is attributable to that part.

(7) For the purposes of this section proceedings shall be treated as finally decided in favour of the unassisted party—

- (a) if no appeal lies against the decision in his favour;
- (b) if an appeal lies against the decision with leave, and the time limited for applications for leave expires without leave being granted; or
- (c) if leave to appeal against the decision is granted or is not required, and no appeal is brought within the time limited for appeal;

and where an appeal against the decision is brought out of time the court by which the appeal (or any further appeal in those proceedings) is determined may make an order for the repayment by the unassisted party to the Board of the whole or any part of any sum previously paid to him under this section in respect of those proceedings.

(8) Where a court decides any proceedings in favour of the unassisted party and an appeal lies (with or without leave) against that decision, the court may, if it thinks fit, make or refuse to make an order under this section forthwith, but if an order is made forthwith it shall not take effect—

- (a) where leave to appeal is required, unless the time limited for applications for leave to appeal expires without leave being granted;
- (b) where leave to appeal is granted or is not required, unless the time limited for appeal expires without an appeal being brought.

(9) For the purposes of this section “court” includes a tribunal.