



# Legal Aid (Scotland) Act 1986

## 1986 CHAPTER 47

### PART I

#### SCOTTISH LEGAL AID BOARD

##### *The Fund*

#### 4 Scottish Legal Aid Fund.

- (1) The Board shall establish and maintain a fund to be known as the Scottish Legal Aid Fund (in this Act referred to as “the Fund”).
- (2) There shall be paid out of the Fund—
- (a) [<sup>F1</sup>subject to [<sup>F2</sup>sections 4A(13) and 33(6)],] such sums as are, by virtue of this Act or any regulations made thereunder, due [<sup>F3</sup>out of the Fund] to any solicitor or counsel [<sup>F4</sup>or registered organisation] in respect of fees and outlays properly incurred [<sup>F5</sup>or in respect of payments made in accordance with regulations made under section 33(3A) of this Act], in connection with the provision, in accordance with this Act, of legal aid or advice and assistance;
  - [<sup>F6</sup>(aza) any expenses incurred by the Board in connection with the provision by solicitors employed by it by virtue of section 27(1) of this Act of—
    - (i) advice and assistance in relation to civil matters;
    - (ii) civil legal aid;
    - [ children's legal assistance;]
  - <sup>F7</sup>(ia) (iii) any services as are mentioned in section 26(2) of this Act;]
  - [<sup>F8</sup>(azb) any sums payable by the Board under contracts made by virtue of section 33B;]
  - [<sup>F9</sup>(aa) any expenses incurred by the Board in connection with the provision of criminal legal assistance by solicitors employed by it by virtue of section 28A of this Act;

**Changes to legislation:** *Legal Aid (Scotland) Act 1986, Cross Heading: The Fund is up to date with all changes known to be in force on or before 25 May 2024. 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*

- (ab) any sums payable by the Board under contracts made by virtue of section 33A of this Act;]
  - [<sup>F10</sup>[<sup>F11</sup>(abc)] any sums payable by the Board under section 17(2D) of this Act;]
  - [<sup>F12</sup>(ac) such sums as are, by virtue of section 4A, due out of the Fund to any person;]
  - [<sup>F13</sup>(ad) such sums as are, by virtue of section 33ZB of this Act, due out of the Fund to a solicitor or counsel in connection with the provision of legal aid or advice and assistance;]
  - (b) expenses awarded to any person under section 19 of this Act; and
  - (c) such other payments <sup>F14</sup> . . . as the Secretary of State may <sup>F15</sup> . . . determine.
- (3) There shall be paid into the Fund—
- (a) any contribution payable to the Fund by any person in pursuance of section 17 of this Act;
  - [<sup>F16</sup>(aa) any contribution payable to the Board by any person in pursuance of section 11 [<sup>F17</sup>, 11A, 25AA or 25AC] of this Act;
  - [<sup>F18</sup>(aaa) any award of expenses made by a criminal court to a person to whom criminal legal assistance has been provided by a solicitor employed by the Board under sections 26 and 27 of this Act;]
  - (ab) any award of expenses made by a criminal court to a person to whom criminal legal assistance has been provided by a solicitor employed by the Board by virtue of section 28A of this Act;]
  - [<sup>F19</sup>(ac) any sums recovered from a person who is receiving or has been in receipt of advice and assistance, civil legal aid or criminal legal aid under section 24, but who has available to him rights and facilities making it unnecessary for him to take advantage of the provisions of this Act.]
  - [<sup>F20</sup>(ad) any sums recovered from a person in connection with a grant made by the Board in accordance with section 4A;]
  - [<sup>F21</sup>(ae) any sums payable to the Board by a solicitor or counsel by virtue of [section 33ZC](#) of this Act;]
  - (b) any sum recovered under an award of a court or an agreement as to expenses in any proceedings in favour of any party who is in receipt of civil legal aid;
  - (c) any sum which is to be paid in accordance with section 17 of this Act out of property recovered or preserved for any party to any proceedings who is in receipt of civil legal aid;
  - [<sup>F22</sup>(cc) any contribution payable to the Board by any person in pursuance of section 28K of this Act;]
  - (d) the sums to be paid by the Secretary of State in pursuance of section 40(1) (a) of this Act; and
  - (e) such other receipts of the Board as the Secretary of State may, <sup>F15</sup> . . . determine.

#### Textual Amendments

- F1** Words in s. 4(2)(a) inserted (30.7.2007) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), **ss. 68(2)(a)**, 82(2) (with s. 77); S.S.I. 2007/335, **art. 2(b)**
- F2** Words in s. 4(2)(a) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 35(2)(a)(i)**, 59(1) (with s. 48(1)(c)(2)(c)(3)(b))
- F3** Words inserted by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 44, **Sch. 4 Pt. I para. 1(a)**
- F4** Words in s. 4(2)(a) inserted (30.7.2007) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), **ss. 67(2)**, 82(2) (with s. 77); S.S.I. 2007/335, **art. 2(a)**

**Changes to legislation:** *Legal Aid (Scotland) Act 1986, Cross Heading: The Fund is up to date with all changes known to be in force on or before 25 May 2024. 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*

- F5** Words in s. 4(2)(a) substituted (1.10.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 12(2)(a)(i)**; S.I. 1997/2323, **art. 6(2)**
- F6** S. 4(2)(aza) inserted (30.7.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), **ss. 74(1), 82(2)** (with s. 77); S.S.I. 2007/335, **art. 2(c)**
- F7** S. 4(2)(aza)(ia) inserted (24.6.2013) by Children's Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 5 para. 1(2)(a)(i)** (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F8** S. 4(2)(azb) inserted (24.6.2013) by Children's Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 5 para. 1(2)(a)(ii)** (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F9** S. 4(2)(aa)(ab) inserted (1.10.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 12(2)(a)(ii)**; S.I. 1997/2323, **art. 6(2)**
- F10** S. 4(2)(ac) inserted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93(1), **Sch. 3 para. 39(2)** (with s. 92); S.I. 2007/2603, **art. 2(d)**
- F11** S. 4(2)(ac) renumbered as s. 4(2)(abc) (23.3.2011) by The Legal Profession and Legal Aid (Scotland) Act 2007 (Modification and Consequential Provisions) Order 2011 (S.S.I. 2011/235), arts. 2(1), **4**
- F12** S. 4(2)(ac) inserted (30.7.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), **ss. 68(2)(b), 82(2)** (with s. 77); S.S.I. 2007/335, **art. 2(b)**
- F13** S. 4(2)(ad) inserted (1.10.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 35(2)(a)(ii), 59(1)** (with s. 48(1)(c)(2)(c)(3)(b))
- F14** Words repealed by Legal Aid Act 1988 (c. 34, SIF 77:1), ss. 44, 45(2), Sch. 4 Pt. I para. 1(b), **Sch. 6**
- F15** Words in s. 4(2)(c)(3)(e) repealed (1.7.1999) by 1999/1820, arts. 1(2), 4, Sch. 2 Pt I para. 86(2), Pt. IV
- F16** S. 4(3)(aa)(ab) inserted (1.10.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 12(2)(b)**; S.I. 1997/2323, **art. 6(2)**
- F17** Words in s. 4(3)(aa) inserted (11.10.2013) by Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3), **ss. 23(2), 25(2)**; S.S.I. 2013/262, art. 2
- F18** S. 4(3)(aaa) inserted (6.7.2001) by 2001 asp 7, **ss. 9(1), 15(3)**
- F19** S. 4(3)(ac) inserted (4.12.2004) by The Legal Aid (Scotland) Act 1986 Amendment Regulations 2004 (S.S.I. 2004/493), **reg. 2**
- F20** S. 4(3)(ad) inserted (30.7.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), **ss. 68(2)(c), 82(2)** (with s. 77); S.S.I. 2007/335, **art. 2(b)**
- F21** S. 4(3)(ae) inserted (1.10.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 35(2)(b), 59(1)** (with s. 48(1)(c)(2)(c)(3)(b))
- F22** S. 4(3)(cc) inserted (24.6.2013) by Children's Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 5 para. 1(2)(b)** (with s. 186); S.S.I. 2013/195, arts. 2, 3

#### **[<sup>F23</sup>4A Power of Board to make grants for certain purposes**

- (1) The Board may, on an application made to it by any person, make grants of such amount and subject to such conditions (including conditions as to repayment) as it may determine to the person in respect of—
- (a) any of the matters mentioned in subsection (2);
  - (b) any of the purposes mentioned in subsection (3).
- (2) The matters are—
- (a) any civil legal [<sup>F24</sup>aid, advice and assistance in relation to civil matters or children's legal assistance] provided, or to be provided, by any solicitor or counsel;
  - (b) any advice and assistance in relation to civil matters [<sup>F25</sup>or children's matters] provided, or to be provided, by any adviser;
  - (c) any advice, assistance or representation (not falling within paragraphs (a) or (b)) provided, or to be provided, by any person, which is connected to civil matters [<sup>F26</sup>or children's matters].

**Changes to legislation:** *Legal Aid (Scotland) Act 1986, Cross Heading: The Fund is up to date with all changes known to be in force on or before 25 May 2024. 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*

- (3) The purposes are facilitating, supporting and developing the provision of any of the matters referred to in subsection (2).
- (4) The Scottish Ministers must specify a limit to the total amount that may be paid out of the Fund by virtue of subsection (1).
- (5) In specifying any limit under subsection (4) the Scottish Ministers must specify the period in relation to which that limit applies.
- (6) Any grant made under subsection (1) must be made in accordance with an approved plan.
- (7) The Board must prepare and publish a plan as to the criteria which the Board will apply in considering whether or not to make such a grant; and the Board must submit the plan to the Scottish Ministers for approval.
- (8) The Scottish Ministers may approve a plan submitted to them under subsection (7) with or without modification.
- (9) The Scottish Ministers may at any time—
  - (a) approve a modification of an approved plan proposed by the Board or withdraw approval of such a plan or modification;
  - (b) require the Board to prepare and publish a plan under subsection (7).
- (10) An application under subsection (1) must include such information as the Board may reasonably require.
- (11) In preparing and publishing the plan under subsection (7) the Board must do so in accordance with such directions as the Scottish Ministers may give.
- (12) Any money due to a person by virtue of this section shall be paid to the person by the Board out of the Fund.
- (13) Any money paid to a person under subsection (1) as provided in subsection (12), in respect of—
  - (a) any civil legal [<sup>F27</sup>aid, advice and assistance or children's legal aid] provided by any solicitor or counsel;
  - (b) any advice and assistance provided by an adviser,shall be taken to be a payment in accordance with this Act; and no other payment may be made out of the Fund in respect of that civil legal aid or, as the case may be, advice and assistance [<sup>F28</sup>or children's legal aid].
- (14) In this section, “approved plan” means a plan approved, for the time being, by the Scottish Ministers under subsection (8); and includes any part or modification of the plan so approved [<sup>F29</sup>and “children's matters” means matters relating to children's hearings, pre-hearing panels (as defined in section 79(2)(a) of the 2011 Act) or proceedings under Part 10 or 15 of the 2011 Act].
- (15) For the purposes of this section, “person” includes a body corporate or unincorporate.]

#### Textual Amendments

**F23** S. 4A inserted (30.7.2007) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), **ss. 68(3), 82(2)** (with [s. 77](#)); [S.S.I. 2007/335](#), **art. 2(b)**

**Changes to legislation:** *Legal Aid (Scotland) Act 1986, Cross Heading: The Fund is up to date with all changes known to be in force on or before 25 May 2024. 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*

- F24** Words in s. 4A(2)(a) substituted (24.6.2013) by Children’s Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 5 para. 1(3)(a)(i)** (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F25** Words in s. 4A(2)(b) inserted (24.6.2013) by Children’s Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 5 para. 1(3)(a)(ii)** (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F26** Words in s. 4A(2)(c) added (24.6.2013) by Children’s Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 5 para. 1(3)(a)(iii)** (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F27** Words in s. 4A(13) substituted (24.6.2013) by Children’s Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 5 para. 1(3)(b)(i)** (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F28** Words in s. 4A(13) added (24.6.2013) by Children’s Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 5 para. 1(3)(b)(ii)** (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F29** Words in s. 4A(14) added (24.6.2013) by Children’s Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 5 para. 1(3)(c)** (with s. 186); S.S.I. 2013/195, arts. 2, 3

## 5 Accounts and audit.

- (1) The Board shall keep separate accounts with respect to—
- (a) the Fund; and
  - (b) the receipts and expenditure of the Board which do not relate to the Fund,
- and shall prepare in respect of each financial year a statement of accounts.
- (2) The accounts shall be kept and the statement of accounts shall be prepared in such form as the Secretary of State may, <sup>F30</sup> . . . direct.
- [<sup>F31</sup>(2A) The Board shall send the accounts and the statement of accounts to the Scottish Ministers by such time as they may direct.
- (2B) The Scottish Ministers shall send the accounts and the statement of accounts to the Auditor General for Scotland for auditing.]
- <sup>F32</sup>(3) . . . . .
- <sup>F32</sup>(4) . . . . .
- <sup>F32</sup>(5) . . . . .
- <sup>F32</sup>(6) . . . . .
- (7) The Secretary of State shall lay before each House of Parliament a copy of every—
- (a) annual report of the Board under section 3(3) of this Act;
  - <sup>F32</sup>(b) . . . . .
  - <sup>F32</sup>(c) . . . . .
- (8) In this section “financial year” means the period beginning with the commencement of this section and ending with 31st March next following and each subsequent period of 12 months ending with 31st March in each year.

### Textual Amendments

- F30** Words in s. 5 repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2)(3), 4, **Sch. 2 Pt I para. 86(3)**.
- F31** S. 5(2A)(2B) inserted (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 6(2)**; S.S.I. 2000/10, **art. 2(3)**
- F32** S. 5(3)-(6) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 6(3)**; S.S.I. 2000/10, **art. 2(3)**

**Changes to legislation:**

Legal Aid (Scotland) Act 1986, Cross Heading: The Fund is up to date with all changes known to be in force on or before 25 May 2024. 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.

[View outstanding changes](#)

**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](#)