

**Changes to legislation:** Legal Aid (Scotland) Act 1986, SCHEDULE 1A is up to date with all changes known to be in force on or before 07 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

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 1A

(introduced by section 12A(3))

#### FURTHER PROVISION IN RELATION TO THE REGISTER OF ADVICE ORGANISATIONS

##### Textual Amendments

- F1** Sch. 1A inserted (30.7.2007) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), **ss. 67(9), 82(2)** (with s. 77); [S.S.I. 2007/335](#), **art. 2(a)**

##### *Register of advice organisations*

- 1 (1) An organisation which satisfies the Board that it complies with the relevant provisions of the adviser code shall be approved by the Board as an organisation that may approve a person to provide advice and assistance on behalf of the organisation; and the Board shall make an appropriate entry on the register of advice organisations.
- (2) An individual may apply for entry on the register of advice organisations as an organisation; and if the Board is satisfied that the individual complies with the relevant provisions of the adviser code in relation to an organisation, the Board shall approve the individual and treat the individual as an organisation for the purposes of this Schedule.
- (3) The Board must make the register of advice organisations available for public inspection, without charge, at all reasonable times.
- (4) In this Schedule an “organisation” includes—
- (a) a firm of solicitors;
  - (b) an incorporated practice within the meaning of section 34(1A)(c) of the Solicitors (Scotland) Act 1980 (c. 46).
  - [ a licensed legal services provider.]
- <sup>F2</sup>(c)

##### Textual Amendments

- F2** Sch. 1A para. 1(4)(c) inserted (2.7.2012) by [The Legal Services \(Scotland\) Act 2010 \(Ancillary Provision\) Regulations 2012 \(S.S.I. 2012/212\)](#), **regs. 1, 3(4)**

##### *Applications*

- 2 (1) An application for entry on the register of advice organisations shall be made in such form as the Board may determine, and shall be accompanied by such documents as the Board may specify.

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- (2) On receipt of an application the Board shall make such enquiries as it thinks appropriate for the purposes of determining whether the applicant complies with the relevant provisions of the adviser code.
- (3) The Board may determine an application to be entered on the register of advice organisations by—
  - (a) granting the application; or
  - (b) refusing the application.
- (4) Where the Board decides to refuse an application it shall as soon as practicable thereafter send the applicant, by recorded delivery, a written note of its reasons.

*Further provision on applications*

- 3 (1) In determining any application for entry on the register of advice organisations, the Board may limit the grant of the application to any of the particular categories of circumstances as specified by virtue of section 12B(1).
- (2) Where the Board limits the grant of an application as mentioned in sub-paragraph (1), the entry made on the register under paragraph 1(1) must state the categories in relation to which the organisation is registered; and any adviser approved by the organisation may provide advice and assistance under this Act only in relation to those categories.

*Adviser code*

- 4 (1) The Board shall prepare a code of practice (an “adviser code”) in relation to advisers and registered organisations.
- (2) The adviser code prepared under sub-paragraph (1) must include—
  - (a) the conditions to be complied with in order to qualify for registration;
  - (b) the types of organisations eligible for registration;
  - (c) the conditions to be complied with in order for a person to be approved by a registered organisation as an adviser;
  - (d) the laying down of standards, conduct, practice and training expected in relation to—
    - (i) the provision of advice and assistance by advisers;
    - (ii) the supervision of such activity by registered organisations;
  - (e) arrangements for dealing with complaints about the activities of advisers and registered organisations;
  - (f) arrangements for monitoring the activities of advisers and registered organisations.
- (3) The adviser code prepared under sub-paragraph (1) has effect on such date as the Board may confirm.
- (4) But the adviser code may not have effect unless and until it has been—
  - (a) approved by the Scottish Ministers; and
  - (b) the Board has laid a copy of the prepared code before the Scottish Parliament.
- (5) The Board is to publish the adviser code in such way as, in its opinion, is likely to bring it to the attention of those interested in it.

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- (6) The Board is to—
- (a) keep the adviser code under review; and
  - (b) revise it where appropriate.
- (7) The provisions of this paragraph apply in relation to any revision of the adviser code as they apply in relation to the version originally prepared.
- (8) Registered organisations shall comply with the relevant requirements of the adviser code.

#### *Monitoring*

- 5 The Board is to monitor—
- (a) the provision of advice and assistance and related activities by advisers;
  - (b) compliance with the adviser code by registered organisations.

#### *Removal of name from the register of advice organisations*

- 6 (1) Where it appears to the Board (whether or not following a complaint made to it) that a registered organisation may not be, or may not have been, complying with the adviser code, it shall investigate the matter in such manner as it thinks fit.
- (2) Where the Board conducts an investigation under sub-paragraph (1) it must allow the registered organisation concerned the opportunity to make representations.
- (3) Following an investigation under sub-paragraph (1), the Board may give the registered organisation concerned an opportunity, within such time as it may specify, to remedy any defect in the compliance with the adviser code.
- (4) Where, after carrying out the procedures mentioned in sub-paragraph (1) and, where a time limit has been set under sub-paragraph (3), after the expiry of that time limit, the Board is satisfied that the registered organisation is not complying with the adviser code, it shall remove from the register of advice organisations the name of the organisation.
- (5) Where, after carrying out the procedures mentioned in sub-paragraph (1) and, where a time limit has been set under sub-paragraph (3), after the expiry of that time limit, the Board is satisfied that, regardless of whether or not there is current compliance with the code, the registered organisation has not complied with the code in a material regard, it may remove the name of the organisation from the register of advice organisations.
- (6) Where the Board decides to remove the name of an organisation from the register of advice organisations in accordance with sub-paragraph (4) it shall as soon as practicable thereafter send the organisation, by recorded delivery, a written note of its reasons.

#### *Appeals*

- 7 (1) A decision by the Board to refuse an application under paragraph 2(3)(b) may be appealed by the applicant to the Court of Session within 21 days of the receipt of the notification of the Board's reasons under paragraph 2(4).

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- (2) A decision by the Board under paragraph 6(4) or (5) to remove from the register of advice organisations the name of a registered organisation may be appealed to the Court of Session within 21 days of the receipt of the notification of the Board's reasons under paragraph 6(6); but the making of an appeal shall not have the effect of restoring the name to the register of advice organisations.
- (3) An appeal under sub-paragraph (1) or (2) may be on questions of both fact and law and the court, after hearing such evidence and representations as it considers appropriate, may make such order as it thinks fit.]

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**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](#)