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## SCHEDULES

### <sup>F1</sup>SCHEDULE 1 **E+W**

#### Textual Amendments

- F1** Sch. 1 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

### <sup>F2</sup>SCHEDULE 2 **E+W**

#### Textual Amendments

- F2** Sch. 2 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

### SCHEDULE 3 **E+W**

Sections 24 and 30.

#### CRIMINAL PROCEEDINGS: ENFORCEMENT OF CONTRIBUTION ORDERS

#### Modifications etc. (not altering text)

- C1** Sch. 3 modified (27.9.1999) by 1999 c.22, ss. 105, 108(3)(e), **Sch. 14 Pt. V para. 37** (with Sch. 14 para. 7(2))

### PART I **E+W**

#### ORDERS MADE BY A COURT

#### *Collecting court*

- 1 In this Part “collecting court”, in relation to a contribution order, means a magistrates’ court specified in the order; and the court so specified shall be—

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- (a) in a case where the court making the order is itself a magistrates' court, that court;
- (b) in a case where the order is made on an appeal from a magistrates' court, or in respect of a person who was committed (whether for trial or otherwise by a magistrates' court) to the Crown Court, the court from which the appeal is brought or, as the case may be, which committed him; and
- (c) in any other case, a magistrates' court nominated by the court making the order.

*Enforcement proceedings*

- 2
- (1) Any sum required to be paid by a contribution order shall be recoverable as if it had been adjudged to be paid by an order of the collecting court, subject to and in accordance with the provisions of this paragraph.
  - (2) Sections 17 (not more than one committal for same arrears) and 18 (power to review committal) of the <sup>M12</sup>Maintenance Orders Act 1958 shall apply as if a contribution order were a maintenance order.
  - (3) The collecting court may exercise, in relation to a contribution order, the power conferred by section 75 of the <sup>M13</sup>Magistrates' Courts Act 1980 (power to dispense with immediate payment); and for the purposes of that section any provisions made by the authority which made the order as to time for payment, or payment by instalments, shall be treated as made by the collecting court.
  - (4) The following provisions of the Magistrates' Courts Act 1980 shall apply as if a contribution order were enforceable as an affiliation order—
    - section 80 (application of money found on defaulter to satisfy sum adjudged);
    - section 93 (complaint for arrears);
    - section 94 (effect of committal on arrears); and
    - section 95 (power to remit arrears).
  - (5) Any costs awarded under section 64 of the Magistrates' Courts Act 1980 on the hearing of a complaint for the enforcement of a contribution order shall be enforceable as a sum required to be paid by that order.

**Marginal Citations**

**M12** 1958 c. 39.

**M13** 1980 c. 43.

- 3
- (1) Without prejudice to paragraph 2, any sum required to be paid by a contribution order shall be enforceable by the High Court or a county court as if the sum were due to the clerk of the collecting court in pursuance of a judgment or order of the High Court or county court, as the case may be.
  - (2) The clerk of the collecting court shall not take proceedings by virtue of this paragraph unless authorised to do so by the court.
  - (3) This paragraph shall not authorise—

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- (a) the enforcement of a sum required to be paid by a contribution order by issue of a writ of fieri facias or other process against goods or by imprisonment or attachment of earnings; <sup>F12</sup> . . .
- <sup>F12</sup>(b) . . . . .

**Textual Amendments**  
**F12** Schedule 3, Pt. I, para. 3(3); para. 3(3)(b) and the word "or" preceding it omitted by virtue of S.I. 1991/724, art. 2(8), Schedule, Pt.I

**Modifications etc. (not altering text)**  
**C2** Schedule 3, Pt.I, para. 3(1) extended by S.I. 1991/724, art.2(1)(m)

- 4 (1) Any expenses incurred by the clerk of a magistrates' court in recovering any sum required to be paid by a contribution order shall be treated for the purposes of Part VI of [<sup>F13</sup>the Justices of the Peace Act 1997] as expenses of the magistrates' courts committee.
- (2) Any sum paid to a clerk of a magistrates' court in or towards satisfaction of a liability imposed by a contribution order shall be paid by him to the Lord Chancellor and [<sup>F13</sup>section 60(4) of the Justices of the Peace Act 1997] (regulations as to accounts of justices' clerks) shall apply in relation to sums payable to the Lord Chancellor under this sub-paragraph as it applies in relation to sums payable to the Secretary of State under that section.

**Textual Amendments**  
**F13** Words in Sch. 3 para. 4(1)(2) substituted (19.6.1997) by 1997 c. 25, ss. 73(2), 74(1), Sch. 5 para. 24(a)(b)

*Transfer of enforcement proceedings to different court*

- 5 (1) Where in relation to any contribution order it appears to the collecting court that the person subject to it is residing in a petty sessions area other than that for which the court acts, the court may make an order under this paragraph ("a transfer order") with respect to the contribution order specifying the other petty sessions area.
- (2) Where a court makes a transfer order in relation to any contribution order—
  - (a) payment under the contribution order shall be enforceable in the petty sessions area specified in the transfer order; and
  - (b) as from the date of the transfer order, a magistrates' court for that petty sessions area shall be substituted for the court which made the transfer order as the collecting court in relation to the contribution order.

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### *Limitations on enforcement by proceedings*

- 6 Any sum due under a contribution order shall not be recoverable, and payment of any such sum shall not be enforced, under paragraph 2 or 3 until—
- (a) the conclusion of the proceedings for the purposes of which the relevant grant of representation was made; or
  - (b) if earlier, the revocation or withdrawal of the relevant grant of representation.
- 7 Where a contribution order has been made in respect of a member of Her Majesty's armed forces and the Secretary of State notifies the collecting court that any sum payable under the order will be recovered by deductions from the person's pay, the collecting court shall not enforce payment of any sum unless and until the Secretary of State subsequently notifies it that the person is no longer a member of those forces and that sum has not been fully recovered.

### *Power to defer enforcement proceedings*

- 8 The collecting court may defer recovering any sum due under a contribution order if—
- (a) an appeal is pending in respect of the proceedings for the purposes of which the relevant grant of representation was made; or
  - (b) the person granted representation has been ordered to be retried.

### *Interpretation*

- 9 In this Part—
- (a) “relevant grant of representation”, in relation to a contribution order, means the grant of representation in connection with which the order was made; and
  - (b) references to the proceedings for the purposes of which a grant of representation has been made include, where the proceedings are proceedings before a magistrates' court which result—
    - (i) in the legally assisted person being committed to the Crown Court for trial or sentence, or
    - (ii) in his case being remitted to a <sup>F14</sup>youth court] in pursuance of section 56(1) of the <sup>M14</sup>Children and Young Persons Act 1933, the proceedings before the Crown Court or that <sup>F14</sup>youth court].

#### **Textual Amendments**

**F14** Words in *Sch. 3 para. 9* substituted (1.10.1992) by *Criminal Justice Act 1991 (c. 53, SIF 39:1)*, s. 100, *Sch. 11 para.40(1)(2)(q)*; S.I. 1992/333, art. 2(2), *Sch.2*.

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#### Marginal Citations

M14 1933 c. 12.

## PART II E+W

### ORDERS MADE BY THE BOARD

#### *Limitations on enforcement by proceedings*

- 10 (1) Any sum due under a contribution order shall not be recoverable, and payment of any such sum shall not be enforced until—
- (a) the conclusion of the proceedings for the purposes of which the relevant grant of representation was made; or
  - (b) if earlier, the revocation or withdrawal of the relevant grant of representation.
- (2) In this paragraph—
- (a) “relevant grant of representation”, in relation to a contribution order, means the grant of representation in connection with which the order was made; and
  - (b) the reference to the proceedings for the purposes of which the relevant grant of representation was made includes, where the proceedings are proceedings before a magistrates’ court which result—
    - (i) in the legally assisted person being committed to the Crown Court for trial or sentence, or
    - (ii) in his case being remitted to a [<sup>F15</sup>youth court] in pursuance of section 56(1) of the Children and Young Persons Act 1933, the proceedings before the Crown Court or that [<sup>F15</sup>youth court].

#### Textual Amendments

F15 Words in Sch. 3 para. 10 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, Sch. 11 para.40(1)(2)(q); S.I. 1992/333, art. 2(2), Sch.2.

- 11 Where a contribution order has been made in respect of a member of Her Majesty’s armed forces and the Secretary of State notifies the Board that any sum payable under the order will be recovered by deductions from the person’s pay, the Board shall not enforce payment of any sum unless and until the Secretary of State subsequently notifies it that the person is no longer a member of those forces and that sum has not been fully recovered.

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## SCHEDULE 4 S

Section 44.

### AMENDMENTS OF LEGAL AID (SCOTLAND) ACT 1986 (C. 47)

#### PART I S

##### *DIRECT PAYMENT OF FEES AND OUTLAYS BY LEGALLY ASSISTED PERSON*

- 1 In section 4(2) (payments out of the Scottish Legal Aid Fund)—
  - (a) in paragraph (a), after the word “due ” there shall be inserted the words “out of the Fund ”.
  - (b) in paragraph (c), the words “for the purposes of this Act ” are repealed.
  
- 2 In section 16—
  - (a) subsection (1) is repealed;
  - (b) in subsection (2), the words “In this section and ” are repealed.

PROSPECTIVE

- 3 In section 17 (contributions, etc.)—
  - (a) in subsection (1), for the words from “by the Board ” to “the Fund ” there shall be substituted the words “to contribute to the fees and outlays incurred by them (or on their behalf) ”;
  - <sup>F16</sup>(b) subsections (3) to (8) are repealed;
  - <sup>F17</sup>(c) .....

#### **Textual Amendments**

**F16** Sch. 4 para. 3(b) repealed (*prosp.*) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76), ss. 74(2), 75(2), **Sch. 9**

**F17** Sch. 4 para. 3(c) repealed (26.8.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76), ss. 74(2), **Sch. 9**; S.I. 1991/1903, art. 3, Sch.

- 4 In section 32 (a) (restriction on payment etc.), the words “, out of the Fund ” are repealed.

PROSPECTIVE

- 5 In section 33 (fees and outlays of solicitors and counsel) in subsection (1), for the words from “out ” to the end there shall be substituted the words—
 

“in respect of any fees or outlays properly incurred by him in so acting—

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- (a) by the person concerned, to the extent to which a contribution has been determined for him under section 17 of this Act;
- (b) to the extent that such fees and outlays exceed any such contribution out of the Fund in accordance with section 4(2)(a) of this Act.”

6 In section 36(2) (regulations), in paragraph (b) at end add—

“and the power to substitute different amounts for the amount specified in section 10(2) of this Act includes power to substitute different amounts in relation to different cases or classes of case”.

## PART II S

### LIABILITY OF LEGALLY ASSISTED PERSON FOR EXPENSES TO BE ASSESSED IN ALL CASES

7 In section 18 (expenses)—

- (a) subsection (1) is repealed;
- (b) in subsection (2), for the words “in proceedings to which this section applies”, there shall be substituted the words “in any proceedings”.

8 In section 19(1) (expenses out of the Fund), for the words “to which this section applies” there shall be substituted the words “to which a legally assisted person is party and which are finally decided in favour of an unassisted party”.

9 In section 20(1) (supplementary), for the words “sections 18 and ” there shall be substituted the word “section”.

## PART III S

### BOARD’S PROPERTY TO BE RATEABLE

10 In Schedule 1, paragraph 2(4) is repealed.

## SCHEDULE 5 U.K.

Section 45.

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### Public Records Act 1958 (c. 51)

1 In Schedule 1 to the Public Records Act 1958 (definition of public records), there shall be inserted at the end of Part I of the Table at the end of paragraph 3 the following entry—

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“Lord Chancellor’s Department. Legal Aid Board.”

*Parliamentary Commissioner Act 1967 (c. 13)*

F18<sub>2</sub> .....

**Textual Amendments**  
F18 Sch. 5 para. 2 repealed (1.4.2000) by 1999 c. 22, s. 106, Sch. 15 Pt. I (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), Sch. (with transitional provisions in arts. 3-5)

*Attachment of Earnings Act 1971 (c. 32)*

3 In section 25(1) of the Attachment of Earnings Act 1971, for the words “section 7 or 8(2) of the Legal Aid Act 1982 ” there shall be substituted the words “section 23 of the Legal Aid Act 1988 ”.

*House of Commons Disqualification Act 1975 (c. 24)*

F19<sub>4</sub> .....

**Textual Amendments**  
F19 Sch. 5 para. 4 repealed (1.4.2000) by 1999 c. 22, s. 106, Sch. 15 Pt. I (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), Sch. (with transitional provisions in arts. 3-5)

*Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

F20<sub>5</sub> .....

**Textual Amendments**  
F20 Sch. 5 para. 5 repealed (1.4.2000) by 1999 c. 22, s. 106, Sch. 15 Pt. I (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), Sch. (with transitional provisions in arts. 3-5)

*Sex Discrimination Act 1975 (c. 65)*

6 In section 75(4) of the Sex Discrimination Act 1975—  
F21(a) .....  
(b) for the words “any of those Acts for payment of any sum into the legal aid fund ” there shall be substituted the words “either of those Acts for payment of any sum to the Legal Aid Board or into the Scottish Legal Aid Fund ”.



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**Textual Amendments**

**F21** Sch. 5 para. 6(a) repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

*Race Relations Act 1976 (c. 74)*

- 7 In section 66(6) of the Race Relations Act 1976—
- <sup>F22</sup>(a) . . . . .
- (b) for the words “any of those Acts for payment of any sum into the legal aid fund” there shall be substituted the words “either of those Acts for payment of any sum to the Legal Aid Board or into the Scottish Legal Aid Fund”.

**Textual Amendments**

**F22** Sch. 5 para. 7(a) repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

*Child Care Act 1980 (c. 5)*

- <sup>F23</sup>8 . . . . .

**Textual Amendments**

**F23** Sch. 5 para. 8 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 para. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

*Magistrates’ Courts Act 1980 (c. 43)*

- 9 In section 92(1)(b) of the Magistrates’ Courts Act 1980, for the words “section 7 or 8(2) of the Legal Aid Act 1982” there shall be substituted the words “section 23 of the Legal Aid Act 1988”.

*Supreme Court Act 1981 (c. 54)*

- 10 In section 47(7) of the Supreme Court Act 1981, for the words “legal aid contribution order made under section 7 or 8(2) of the Legal Aid Act 1982” there shall be substituted the words “contribution order made under section 23 of the Legal Aid Act 1988”.

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*Telecommunications Act 1984 (c. 12)*

11 In section 52 of the Telecommunications Act 1984, the following subsection shall be substituted for subsection (5)—

- “(5) A charge conferred by subsection (4) above is subject to—
- (a) any charge under the Legal Aid Act 1988 and any provision of that Act for payment of any sum to the Legal Aid Board;
  - (b) any charge or obligation for payment in priority to other debts under the Legal Aid (Scotland) Act 1986 and any provision of that Act for payment of any sum into the Scottish Legal Aid Fund; or
  - (c) any charge under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 and any provision of that Order for payment of any sum into the legal aid fund.”

*Prosecution of Offences Act 1985 (c. 23)*

12 In section 19(2)(b) of the Prosecution of Offences Act 1985, the words “(including any legal aid order) ” shall be omitted and at the end of that paragraph there shall be inserted the words “or any grant of representation for the purposes of the proceedings which has been made under the Legal Aid Act 1988. ”

13 In section 20(2) of that Act, for the words “out of the legal aid fund or ” there shall be substituted the words “by the Legal Aid Board or out of ”.

14 In section 21(1) of that Act, for the definition of “legally assisted person ” there shall be substituted the following—

““legally assisted person ”, in relation to any proceedings, means a person to whom representation under the Legal Aid Act 1988 has been granted for the purposes of the proceedings;”.

15 In section 21 of that Act, after subsection (4), there shall be inserted the following subsection—

- “(4A) Where one party to any proceedings is a legally assisted person then—
- (a) for the purposes of sections 16 and 17 of this Act, his costs shall be taken not to include either the expenses incurred on his behalf by the Legal Aid Board or the Lord Chancellor or, if he is liable to make a contribution under section 23 of the Legal Aid Act 1988, any sum paid or payable by way of contribution; and
  - (b) for the purposes of sections 18 and 19 of this Act, his costs shall be taken to include the expenses incurred on his behalf by the Legal Aid Board or the Lord Chancellor (without any deduction on account of any contribution paid or payable under section 23 of the Legal Aid Act 1988) but, if he is liable to make such a contribution his costs shall be taken not to include any sum paid or payable by way of contribution.”

*Child Abduction and Custody Act 1985 (c. 60)*

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**Textual Amendments**

**F24** Sch. 5 para. 16 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

*Administration of Justice Act 1985 (c. 61)*

17 In section 40 of the Administration of Justice Act 1985 (preliminary provisions concerning legal aid complaints), for the words from the beginning of paragraph (a) to the end there shall be substituted the words “the provision for any person of services under the Legal Aid Act 1988 including, in the case of a solicitor, provision for any person of such services in the capacity of agent for that person’s solicitor.”

[<sup>F25</sup>18 . . . . .]

**Textual Amendments**

**F25** Sch. 5 para. 18 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

19 In section 44 of that Act—

(a) in subsection (3), in the inserted subsection (2A), for the words from the beginning of paragraph (a) to the end there shall be substituted the words—

“(a) his conduct, including conduct in the capacity of agent for another solicitor, in connection with the provision for any person of services under the Legal Aid Act 1988; or

(b) his professional conduct generally.”; and

(b) in subsection (4), in the inserted subsection (6), for the words from “each ” to the end there shall be substituted the words “those who may be selected or assigned for the purpose of providing for any person services under the Legal Aid Act 1988.”

*Housing Act 1985 (c. 68)*

<sup>F26</sup>20 . . . . .

**Textual Amendments**

**F26** Sch. 5 para. 20 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

*Family Law Act 1986 (c. 55)*

<sup>F27</sup>21 . . . . .

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#### Textual Amendments

- F27** Sch. 5 para. 21 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

#### *Criminal Justice Act 1987 (c. 38)*

- 22 In section 4(1) of the Criminal Justice Act 1987, for the words “section 28(7A) of the Legal Aid Act 1974 ” there shall be substituted the words “section 20(4) of the Legal Aid Act 1988 ”.

#### <sup>F28</sup>SCHEDULE 6 **U.K.**

#### Textual Amendments

- F28** Sch. 6 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

#### <sup>F29</sup>SCHEDULE 7 **E+W**

#### Textual Amendments

- F29** Sch. 7 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15, Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

#### <sup>F33</sup>SCHEDULE 8 **E+W**

#### Textual Amendments

- F33** Sch. 8 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts. 3-5)

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