



Legal Aid (Scotland) Act 1986

1986 CHAPTER 47

PART VI

MISCELLANEOUS

Proceedings in relation to children

29 Legal aid in certain proceedings relating to children

- (1) This section applies to legal aid in connection with—
 - (a) proceedings before the sheriff in respect of any matter arising under Part III of the Social Work (Scotland) Act 1968 (in this section referred to as "the 1968 Act"); and
 - (b) any appeal to the Court of Session in connection with such proceedings.
- (2) Subject to subsections (3) to (5) below, legal aid to which this section applies shall be available to a child or his parent—
 - (a) in connection with an appeal to the sheriff under Part III of the 1968 Act—
 - (i) against a decision of a children's hearing to grant a warrant for the detention of the child; or
 - (ii) against any other decision of a children's hearing;
 - (b) in connection with an application to the sheriff under section 42 of the 1968 Act for a finding as to whether the grounds for a referral (or any of them) are established ; and
 - (c) in connection with an appeal to the Court of Session against a decision of the sheriff under Part III of the 1968 Act.
- (3) Legal aid shall be available under subsection (2)(a)(i) above on an application made to the sheriff without inquiry into the resources of the child or his parent.
- (4) Legal aid shall be available under subsection (2)(a)(ii) or (b) above on an application made to the sheriff if the sheriff is satisfied—
 - (a) that it is in the interests of the child that legal aid be made available; and

Status: This is the original version (as it was originally enacted).

- (b) after consideration of the financial circumstances of the child and his parent that the expenses of the case cannot be met without undue hardship to the child or his parent or the dependants of either.
- (5) Legal aid shall be available under subsection (2)(c) above on an application made to the Board if it is satisfied—
 - (a) after consideration of the financial circumstances of the child and his parent that the expenses of the appeal cannot be met without undue hardship to the child or his parent or the dependants of either ; and
 - (b) that the child or, as the case may be, his parent has substantial grounds for making or responding to the appeal and that it is reasonable, in the particular circumstances of the case, that legal aid should be made available to him.
- (6) The Board may require a person receiving legal aid under subsection (2)(c) above to comply with such conditions as it considers expedient to enable it to satisfy itself from time to time that it is reasonable for him to continue to receive such legal aid.
- (7) Where, in connection with any proceedings, the sheriff or the Board has been satisfied as is mentioned in subsection (4)(b) above or, as the case may be, subsection (5)(a) above and has made legal aid available to a child or his parent, it shall not be necessary for the Board or, as the case may be, the sheriff to be so satisfied in respect of an application for legal aid by the child or his parent in connection with any subsequent proceedings arising from such proceedings.
- (8) Legal aid to which this section applies shall consist of representation by a solicitor and (so far as is necessary) by counsel in any proceedings (including any appeal) mentioned in subsection (1) above and shall include all such assistance as is usually given by solicitor or counsel in the steps preliminary to or incidental to proceedings.
- (9) In this section " child " and " parent " shall be construed in accordance with section 30 of the 1968 Act.