



Legal Aid (Scotland) Act 1986

1986 CHAPTER 47

PART II

ADVICE AND ASSISTANCE

12 Payment of fees or outlays otherwise than through clients' contributions.

(1) In this section, in relation to advice and assistance provided by a solicitor employed by—

- (a) a firm of solicitors;
- (b) an incorporated practice; or
- (c) the Board,

in the course of that employment (or by counsel on instructions given to him by such a solicitor), “the solicitor” includes the firm, incorporated practice or the Board, as the case may be.

(2) This section applies to any fees or outlays properly chargeable (in accordance with section 33 of this Act), in respect of advice and assistance given to a client in pursuance of this Part of this Act

[^{F1}; but does not apply to the salary payable to a solicitor employed by the Board [^{F2}under sections 26 and 27 of this Act or to the salary payable to a solicitor employed by the Board]] by virtue of section 28A of this Act.

(3) Except in so far as regulations made under this section otherwise provide, fees or outlays to which this section applies shall be paid to the solicitor as follows—

- (a) first, out of any [^{F3}amount] payable by the client in accordance with section 11(2) of this Act;
- (b) secondly, in priority to all other debts, out of any expenses which (by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the client by any other person in respect of the matter in connection with which the advice and assistance is provided;

Status: Point in time view as at 15/08/2003. This version of this provision has been superseded.

Changes to legislation: Legal Aid (Scotland) Act 1986, Section 12 is up to date with all changes known to be in force on or before 30 July 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)

- (c) thirdly, in priority to all other debts, out of any property (of whatever nature and wherever situated) which is recovered or preserved for the client in connection with that matter, including his rights under any settlement arrived at in connection with that matter in order to avoid or bring to an end any proceedings;
- (d) fourthly, by the Board out of the Fund, following receipt by it of a claim submitted by the solicitor.

Textual Amendments

- F1** Words in s. 12(2) inserted (1.10.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 12(4)(a)**; S.I. 1997/2323, **art. 6(2)**
- F2** Words in s. 12(2) inserted (6.7.2001) by 2001 asp 7, **ss. 9(3)**, 15(3)
- F3** Word in s. 12(3)(a) substituted (1.10.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 12(4)(b)**; S.I. 1997/2323, **art. 6(2)**

Modifications etc. (not altering text)

- C1** Pt. II (ss. 6–12) applied by S.I. 1988/2290, **reg. 3**
- C2** S. 12(3) modified (7.10.1996) by S.I. 1996/2447, **reg. 5(1)(c)**
- C3** S. 12(3)(c) restricted by S.I. 1987/382, **reg. 15(1)**
S. 12(3)(c) excluded (7.10.1996) by S.I. 1996/2447, **reg. 16(2)**
S. 12(3)(c): power to exclude conferred (7.10.1996) by S.I. 1996/2447, **reg. 16(3)**

Status:

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