



# Legal Aid Act 1988

## 1988 CHAPTER 34

### PART I

#### PRELIMINARY

**F1** .....

#### Textual Amendments

**F1** S. 1 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

**F2** .....

#### Textual Amendments

**F2** S. 2 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

### PART II

#### LEGAL AID BOARD AND LEGAL AID

**F3** .....

*Status: Point in time view as at 01/10/2009.*

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**Textual Amendments**

**F3** S. 3 repealed (1.4.2001 in relation to s. 3(5)-(10) and otherwise 2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt.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); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

**F4** .....

**Textual Amendments**

**F4** S. 4 repealed (1.4.2000 in relation to s. 4(5)(8) and otherwise 2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt.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); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

**F5** .....

**Textual Amendments**

**F5** S. 5 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt.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)

**F6** .....

**Textual Amendments**

**F6** S. 6 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt.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)

**F7** .....

**Textual Amendments**

**F7** S. 7 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt.I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c), **Sch.** (with transitional provisions in arts.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)

**PART III**

ADVICE AND ASSISTANCE

**F8** .....

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**Textual Amendments**

**F8** S. 8 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt.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)

**F<sup>9</sup>9** .....

**Textual Amendments**

**F9** S. 9 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)

**F<sup>10</sup>10** .....

**Textual Amendments**

**F10** S. 10 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)

**F<sup>11</sup>11** .....

**Textual Amendments**

**F11** S. 11 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)

**F<sup>12</sup>12** .....

**Textual Amendments**

**F12** S. 12 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)

**F<sup>13</sup>13** .....

**Textual Amendments**

**F13** S. 13 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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**[<sup>F14</sup>PART IIIA  
MEDIATION]**

**Textual Amendments**

**F14** Pt. IIIA (s. 13A) inserted (21.3.1997) by 1996 c. 27, s. 26(1); S.I. 1997/1077, art.2

<sup>F15</sup>13A .....

**Textual Amendments**

**F15** S. 13A repealed (1.4.2000) by 1999 s. 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>F16</sup>13B .....

**Textual Amendments**

**F16** S. 13B 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>F17</sup>13C .....

**Textual Amendments**

**F17** S. 13C 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)

**PART IV**

**CIVIL LEGAL AID**

<sup>F18</sup>14 .....

**Textual Amendments**

**F18** S. 14 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>F19</sup>15 .....

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**Textual Amendments**

**F19** S. 15 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)

**F20** **16** .....

**Textual Amendments**

**F20** S. 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)

**F21** **17** .....

**Textual Amendments**

**F21** S. 17 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)

**F22** **18** .....

**Textual Amendments**

**F22** S. 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)

**PART V**

**CRIMINAL LEGAL AID**

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

**C1** Pt. V (ss. 19-26) applied (with modifications) (15.3.1996) by S.I. 1996/716, **art. 24(1)(b)**  
Pt. V (ss. 19-26) modified (30.9.1998 in the petty sessions areas and petty sessional divisions noted in S.I. 1998/2327, **Sch. 2** and otherwise 1.11.1999) by 1998 c. 37, s. **49(1)(j)**; S.I. 1998/2327, art. 3(2), **Sch.2**; S.I. 1999/2976, **art. 2**

**F23** **19** .....

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**Textual Amendments**

**F23** S. 19 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

**F24** **20** .....

**Textual Amendments**

**F24** S. 20 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

**F25** **21** .....

**Textual Amendments**

**F25** S. 21 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

**F26** **22** .....

**Textual Amendments**

**F26** S. 22 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

**F27** **23** .....

**Textual Amendments**

**F27** S. 23 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

**F28** **24** .....

**Textual Amendments**

**F28** S. 24 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 4 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

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F29 **25** .....

**Textual Amendments**

**F29** S. 25 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

F30 **26** .....

**Textual Amendments**

**F30** S. 26 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

**PART VI**

LEGAL AID IN SPECIAL CASES

*Care proceedings*

**Textual Amendments**

**F31** S. 27 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 99(4), 108(7), **Sch.15**; S.I. 1991/828, **art. 3(2)**

**Textual Amendments**

**F32** S. 28 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 99(4), 108(7), **Sch.15**; S.I. 1991/828, **art. 3(2)**

*Contempt proceedings*

F33 **29** .....

**Textual Amendments**

**F33** S. 29 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

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*Supplementary*

F34<sup>30</sup> .....

**Textual Amendments**

**F34** S. 30 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 paras. 2, 5)

**PART VII**

GENERAL AND SUPPLEMENTARY

F35<sup>31</sup> .....

**Textual Amendments**

**F35** S. 31 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)

F36<sup>32</sup> .....

**Textual Amendments**

**F36** S. 32 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) and subject to an amendment (28.8.2000) by S.I. 2000/2127, **art. 4**

**33 Legal aid complaints against barristers and their exclusion from legal aid work.**

The following sections shall be substituted for sections 41 and 42 of the <sup>M1</sup>Administration of Justice Act 1985—

**“41 Application to legal aid complaints against barristers of disciplinary provisions.**

- (1) The disciplinary provisions applicable to barristers shall apply to legal aid complaints relating to the conduct of barristers as they apply to other complaints about their conduct.
- (2) Subject to any exclusion or restriction made by those provisions, any disciplinary tribunal which hears a legal aid complaint relating to the conduct of a barrister may, if it thinks fit and whether or not it makes any other order, order that any fees—
  - (a) otherwise payable in connection with his services under or in accordance with the Legal Aid Act 1988, or



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- (b) otherwise chargeable in connection with his services in respect of advice or assistance made available under Part III of that Act, shall be reduced or cancelled.
- (3) Accordingly, in so far as any of sections 9, 11, 15(6) and (7) and 25(2) of the Legal Aid Act 1988 (which relate to remuneration for legal aid work) has effect in relation to any fees reduced or cancelled by an order under subsection (2) above, it shall so have effect subject to the provisions of that order.
- (4) An appeal shall lie in the case of an order under subsection (2) above in the same manner as an appeal would lie in the case of any other order of such a tribunal.
- (5) The reference in subsection (2) above to a disciplinary tribunal is a reference to a tribunal acting under the disciplinary provisions applicable to barristers and it includes a reference to a member exercising any functions of the tribunal delegated to him.

#### **42 Exclusion of barristers from legal aid work.**

- (1) Subject to any exclusion or restriction made by the disciplinary provisions applicable to barristers, where a disciplinary tribunal hears a charge of professional misconduct or breach of professional standards against a barrister, it may order that he shall be excluded from legal aid work, either temporarily or for a specified period, if it determines that there is good reason for the exclusion arising out of—
  - (a) his conduct in connection with any such services as are mentioned in section 40(1), or
  - (b) his professional conduct generally.
- (2) Subsection (4) of section 41 shall apply to an order under subsection (1) as it applies to an order under subsection (2) of that section.
- (3) The disciplinary provisions applicable to barristers shall include provision enabling a barrister who has been excluded from legal aid work under this section to apply for an order terminating his exclusion from such work.
- (4) In this section—
  - (a) the reference to a disciplinary tribunal shall be construed in accordance with section 41(5); and
  - (b) references to a person being excluded from legal aid work are references to his being excluded from those who may be selected or assigned under section 32 of the Legal Aid Act 1988.”

#### **Marginal Citations**

M1 1985 c. 61.

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**Textual Amendments**

**F37** S. 34 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)

**F38** **35** .....

**Textual Amendments**

**F38** S. 35 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)

**F39** **36** .....

**Textual Amendments**

**F39** S. 36 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)

**F40** **37** .....

**Textual Amendments**

**F40** S. 37 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)

**F41** **38** .....

**Textual Amendments**

**F41** S. 38 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)

**F42** **39** .....

**Textual Amendments**

**F42** S. 39 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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F43 **40** .....

**Textual Amendments**

**F43** S. 40 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)

F44 **41** .....

**Textual Amendments**

**F44** S. 41 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 3(b) (with transitional provisions and savings in Sch. 2 paras. 2, 5)

F45 **42** .....

**Textual Amendments**

**F45** S. 42 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)

F46 **43** .....

**Textual Amendments**

**F46** S. 43 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 3(b) (with transitional provisions and savings in Sch. 2 paras. 2, 5)

**PART VIII**

MISCELLANEOUS

*Scottish provisions*

**44 Scottish provisions.**

The <sup>M2</sup>Legal Aid (Scotland) Act 1986 shall have effect subject to the amendments specified in Schedule 4 to this Act.

**Marginal Citations**

**M2** 1986 c. 47.

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## Supplementary

<sup>F47</sup> 45 .....

### Textual Amendments

**F47** S. 45 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>F48</sup> 46 .....

### Textual Amendments

**F48** S. 46 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)

## 47 Short title, commencement and extent.

- (1) This Act may be cited as the Legal Aid Act 1988.
- (2) Subject to subsections (3) and (4) below, this Act shall come into force on such day as the Lord Chancellor appoints by order and different days may be appointed for different provisions.
- (3) Section 44 and Schedule 4 shall come into force on such day as the Secretary of State appoints by order and different days may be appointed for different provisions.
- (4) Sections 35 (together with the repeal of section 21 of the <sup>M3</sup>Legal Aid Act 1974) and 46 shall come into force on the date on which this Act is passed.
- (5) An order under subsection (2) or (3) above may contain such transitional and saving provisions as appear to the Lord Chancellor or, as the case may be, the Secretary of State necessary or expedient.
- (6) This Act, with the exception of sections 12(3) and 17(3), section 44 and Schedule 4 and the amendments or repeals of the enactments referred to in section 45(3), extends to England and Wales only and section 44 and Schedule 4 extend to Scotland only.

### Modifications etc. (not altering text)

- C2** Power of appointment conferred by s. 47(2) partly exercised: [S.I. 1988/1361](#), 1989/288  
**C3** Power of appointment conferred by s. 47(3) partly exercised: [S.I. 1988/1388](#)

### Marginal Citations

**M3** 1974 c. 4.

**Status:**

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