



Legal Aid Act 1988

1988 CHAPTER 34

PART I

PRELIMINARY

1 Purpose of this Act.

The purpose of this Act is to establish a framework for the provision under Parts II, III, IV, V and VI of advice, assistance and representation which is publicly funded with a view to helping persons who might otherwise be unable to obtain advice, assistance or representation on account of their means.

2 Interpretation.

- (1) This section has effect for the interpretation of this Act.
- (2) “Advice ” means oral or written advice on the application of English law to any particular circumstances that have arisen in relation to the person seeking the advice and as to the steps which that person might appropriately take having regard to the application of English law to those circumstances.
- (3) “Assistance ” means assistance in taking any of the steps which a person might take, including steps with respect to proceedings, having regard to the application of English law to any particular circumstances that have arisen in relation to him, whether by taking such steps on his behalf (including assistance by way of representation) or by assisting him in taking them on his own behalf.
- (4) “Representation ” means representation for the purposes of proceedings and it includes—
 - (a) all such assistance as is usually given by a [F¹solicitor or counsel][F¹legal representative]in the steps preliminary or incidental to any proceedings;
 - (b) all such assistance as is usually so given in civil proceedings in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings; and
 - (c) in the case of criminal proceedings, advice and assistance as to any appeal;

Status: Point in time view as at 01/02/1991.

Changes to legislation: Legal Aid Act 1988, Part I is up to date with all changes known to be in force on or before 29 June 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)

and related expressions have corresponding meanings.

- (5) Regulations may specify what is, or is not, to be included in advice or assistance of any description, or representation for the purposes of proceedings of any description, to which any Part or provision of a Part of this Act applies and the regulations may provide for the inclusion, in prescribed circumstances, of advice or assistance given otherwise than under this Act.
- (6) Advice, assistance and representation under this Act, except when made available under Part II, [^{F2}is only by persons who are solicitors or barristers][^{F2}shall only be by legal representatives], but in the case of Part II, may be by other persons.
- [^{F3}(7) In any particular case, advice, assistance and representation under this Act, except when made available under Part II, shall be by solicitor and, so far as necessary counsel; but regulations may prescribe the circumstances in which representation is to be by counsel only or by solicitor only and regulate representation by more than one counsel.]
- [^{F3}(7) Subject to section 59 of the Courts and Legal Services Act 1990, regulations—
- (a) may prescribe the circumstances in which representation shall be only by one legal representative and may require him to be from a prescribed category;
 - (b) may regulate representation by more than one legal representative from any one or more prescribed categories.
- (7A) If it is satisfied that the circumstances of a particular case in the Supreme Court or the House of Lords warrant a direction under this subsection, the Board or, in the case of criminal proceedings the competent authority, may direct that representation in that case shall be by one legal representative.
- (7B) In subsection (7A), “competent authority ” shall be construed in accordance with section 20.]
- (8) The Lord Chancellor may, if it appears to him to be necessary to do so for the purpose of fulfilling any obligation imposed on the United Kingdom or Her Majesty’s Government in the United Kingdom by any international agreement, by order direct that such advice or assistance relating to the application of other laws than English law as is specified in the order shall be advice or assistance for any of the purposes of this Act.
- (9) For the purposes of the application of subsection (8) above in the case of an obligation to provide for the transmission to other countries of applications for legal aid under their laws, the reference to advice or assistance relating to the application of other laws includes a reference to advice or assistance for the purposes of making and transmitting such an application.
- (10) In this Act “person ” does not include a body of persons corporate or unincorporate which is not concerned in a representative, fiduciary or official capacity so as to authorise advice, assistance or representation to be granted to such a body.
- (11) In this Act “legally assisted person ” means any person who receives, under this Act, advice, assistance or representation and, in relation to proceedings, any reference to an assisted party or an unassisted party is to be construed accordingly.

Status: Point in time view as at 01/02/1991.

Changes to legislation: *Legal Aid Act 1988, Part I is up to date with all changes known to be in force on or before 29 June 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)*

Textual Amendments

- F1** Words “legal representative ” substituted (*prosp.*) for “solicitor or counsel ” by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), ss. 124\(3\), 125\(3\), **Sch. 18 para. 63\(3\)\(a\)**](#)
- F2** Words “shall only be legal representatives ” substituted (*prosp.*) for “is only by persons who are solicitors or barristers ” by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), ss. 124\(3\), 125\(3\), **Sch. 18 para. 61\(1\)**](#)
- F3** [S. 2\(7\)](#) beginning “Subject to section 59 ”, (7A)(7B) substituted (*prosp.*) for s. 2(7) beginning “In any particular case, ” by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), ss. 124\(3\), 125\(3\), **Sch. 18 para. 61\(2\)**](#)

Modifications etc. (not altering text)

- C1** [S. 2\(7\)](#) restricted (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), ss. 59\(2\), 124\(3\)](#)

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

Legal Aid Act 1988, Part I is up to date with all changes known to be in force on or before 29 June 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.