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Changes to legislation: Legal Aid Act 1988 is up to date with all changes known to be in force on or before 16 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)

SCHEDULES

^{F1}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- F1** Sch. 1 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt.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)

^{F2}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- F2** Sch. 2 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt.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)

^{F12}SCHEDULE 3 **E+W**

Textual Amendments

- F12** Sch. 3 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt.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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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 - (b) in paragraph (c), the words “for the purposes of this Act ” are repealed.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- (a) subsection (1) is repealed;
 - (b) in subsection (2), the words “In this section and ” are repealed.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) ”;
 - ^{F17}(b) subsections (3) to (8) are repealed;
 - ^{F18}(c)

Textual Amendments

F17 Sch. 4 para. 3(b) repealed (*prosp.*) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76), ss. 74(2), 75(2), **Sch. 9**

F18 Sch. 4 para. 3(c) repealed (26.8.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76), ss. 74(2), **Sch. 9**; S.I. 1991/1903, art. 3, Sch.

- 4 In section 32 (a) (restriction on payment etc.), the words “, out of the Fund ” are repealed.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

F19²

Textual Amendments

F19 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)

F20³

Textual Amendments

F20 Sch. 5 para. 3 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)

House of Commons Disqualification Act 1975 (c. 24)

F21⁴

Textual Amendments

F21 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)

F22⁵

Textual Amendments

F22 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 F23

Textual Amendments

F23 Sch. 5 para. 6 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 91, 93, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

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Race Relations Act 1976 (c. 74)

7 F24

Textual Amendments

F24 Sch. 5 para. 7 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 91, 93, **Sch. 4** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

Child Care Act 1980 (c. 5)

F25g

Textual Amendments

F25 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)

F26g

Textual Amendments

F26 Sch. 5 para. 9 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] Senior Courts Act 1981(c. 54)

Textual Amendments

F27 Sch. 5: the words "Senior Courts Act 1981" substituted (1.10.2009) for the words "Supreme Court Act 1981" wherever they occur by Constitutional Reform Act 2005 (c. 4), ss. 59, 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2**

F28 10

Textual Amendments

F28 Sch. 5 para. 10 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)

Telecommunications Act 1984 (c. 12)

11 [F29] 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—

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- (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.”]

Textual Amendments

F29 Sch. 5 para. 11 repealed (25.7.2003 for certain purposes and 29.12.2003 for certain purposes) by Communications Act 2003 (c. 21), ss. 406, 411(2)(3), Sch. 19(1) (with Sch. 18); S.I. 2003/1900, art. 2(1), Sch. 1 (with arts. 3-6); S.I. 2003/3142, art. 3(2) (with art. 11)

Prosecution of Offences Act 1985 (c. 23)

F30 12

Textual Amendments

F30 Sch. 5 para. 12 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)

- 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.”

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Child Abduction and Custody Act 1985 (c. 60)

^{F31}16

Textual Amendments

F31 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.”

[^{F32}18

Textual Amendments

F32 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.”;

^{F33}

^{F33}(b)

Textual Amendments

F33 Sch. 5 para. 19(b) and the word “and” immediately preceding 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)

Housing Act 1985 (c. 68)

^{F34}20

Textual Amendments

F34 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)

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Family Law Act 1986 (c. 55)

F35 21

Textual Amendments
F35 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)

F36 22

Textual Amendments
F36 Sch. 5 para. 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)

F37 SCHEDULE 6 U.K.

Textual Amendments
F37 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)

F38 SCHEDULE 7 E+W

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Textual Amendments
F38 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)

F42 SCHEDULE 8 E+W

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Textual Amendments

F42 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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