

1984 No. 253 (C. 8) (S. 25)

LEGAL AID AND ADVICE, SCOTLAND
HIGH COURT OF JUSTICIARY, SCOTLAND
COURT OF SESSION, SCOTLAND
SHERIFF COURT, SCOTLAND
DISTRICT COURTS, SCOTLAND

**The Divorce Jurisdiction, Court Fees and Legal Aid (Scotland)
Act 1983 (Commencement) Order 1984**

Made - - - - 27th February 1984

In exercise of the powers conferred on me by section 7(3) of the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983(a) and of all other powers enabling me in that behalf I hereby make the following order:—

1.—(1) This order may be cited as the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (Commencement) Order 1984.

(2) In this order—

“the Act” means the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983;

“legal advice and assistance” means advice and assistance sought or received in pursuance of Part I of the Legal Advice and Assistance Act 1972(b).

2. The provisions of the Act which are referred to in column 1 of the Schedule to this order (which relate to the matters described in column 2 of that Schedule) shall, to the extent mentioned in the said column 1, come into force on 1st April 1984.

3. The provisions of the Act, to the extent that they are not already then in force, shall come into force on 1st May 1984.

New St Andrew's House,
Edinburgh.
27th February 1984.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

(a) 1983 c. 12.

(b) 1972 c. 50.

SCHEDULE

Article 2

PROVISIONS OF THE ACT COMING INTO FORCE ON 1ST APRIL 1984

Column 1 Provisions of the Act	Column 2 Subject matter of provisions
Section 3, to the extent necessary to enable section 14A of the Legal Aid (Scotland) Act 1967(a) to take effect only in relation to legal advice and assistance by virtue of the extension of the said section 14A by section 6(1) of the Legal Advice and Assistance Act 1972(b).	Power of Secretary of State to make provision about fees etc; in relation to legal aid.
Section 4.	Power of Secretary of State to regulate court fees.
Section 5.	Finance.
Section 6(1) to the extent necessary to give effect to the paragraphs of Schedule 1 to the Act specified below.	Minor and consequential amendments.
Section 6(2) to the extent necessary to give effect to the repeal of the enactments in Schedule 2 to the Act specified in the Appendix hereto.	Repeals.
Schedule 1— Paragraphs 6, 7 and 8 but only to the extent that section 14A of the Legal Aid (Scotland) Act 1967 is brought into force by section 3 of the Act. Paragraphs 9, 10, 14, 15, 16 and 17.	Minor and consequential amendments.
Schedule 2 to the extent specified in the Appendix hereto.	Repeals.

(a) 1967 c. 43.

(b) Section 6(1) is amended by the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983, section 6(1) and Schedule 1 paragraph 17.

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APPENDIX

REPEALS IN SCHEDULE 2 TO THE ACT TAKING EFFECT ON 1ST APRIL 1984

Chapter	Short title	Extent of repeal
1 & 2 Geo. 4 c. 38	The Court of Session Act 1821	Section 31.
7 Edw. 7 c. 51	The Sheriff Courts (Scotland) Act 1907	In section 40, the words from “and, with the” to “fees of court”.
15 & 16 Geo. 5 c. 33	The Church of Scotland (Property and Endowments) Act 1925	In section 1(3), the words from “The Court of Session” to “the said fees”.
12 & 13 Geo. 6 c. 27	The Juries Act 1949	In section 26(1), the words “by Act of Sederunt” where they appear for the second time.
1967 c. 43	The Legal Aid (Scotland) Act 1967	Section 16(1)(b)(i), (2) and (4).
1972 c. 50	The Legal Advice and Assistance Act 1972	In section 3(3) the words “charges or” in both places where they occur. Section 5(6).

Provided that the repeal of section 16(1)(b)(i), (2) and (4) of the Legal Aid (Scotland) Act 1967 shall come into force for the purpose only of the extension of the said section 16 to legal advice and assistance by section 6(1) of the Legal Advice and Assistance Act 1972.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order brings into force on 1st April 1984 the following provisions of the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983:—

- (a) Section 3 (which relates to the power of the Secretary of State to make provision about fees and outlays of counsel and solicitors in relation to legal aid) but only for the purpose of enabling the Secretary of State to make provision about fees and outlays of counsel and solicitors in relation to advice and assistance under the Legal Advice and Assistance Act 1972;
- (b) Section 4 (which relates to the power of the Secretary of State to regulate court fees);
- (c) Section 5 (which relates to finance); and
- (d) Section 6 and Schedules 1 and 2 (which relate to minor and consequential amendments and repeals) so far as making provision related to section 3 (so far as commenced by this order) and section 4.

The order brings into force on 1st May 1984 all the provisions of that Act which have not previously come into force, namely:—

- (a) Section 1 (which provides for sheriffs to have jurisdiction in respect of actions of divorce);
- (b) Section 3 so far as not commenced by virtue of this order on 1st April 1984; and
- (c) Section 6 and Schedules 1 and 2 so far as not commenced by virtue of section 7(2) of the Act or commenced by virtue of this order on 1st April 1984.

The other provisions of the Act were brought into operation on 11th June 1983 by virtue of section 7(2) of the Act.

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