



# Civil legal aid - information for applicants

This leaflet covers both civil  
legal aid and advice and  
assistance

**Solicitors** - you must give this leaflet to clients  
before they complete a financial eligibility form.

Valid from April 2010

## Contact us

**We do NOT provide legal advice**

Legal Aid Information Line - call **0845 122 8686** to find your nearest legal aid solicitor, find out more about legal aid or to order leaflets.

Website - **[www.slab.org.uk](http://www.slab.org.uk)**

(our website also contains details of our service standards).

If you have questions about forms you need to fill in or your **financial eligibility**, call our financial assessment unit on **0845 123 2330** (weekdays 8.30-5pm).

Please note that for training and monitoring purposes your calls to us may be recorded.

## Civil Legal Assistance Offices

You may be able to get help on some types of problem from a Board-employed solicitor in one of our Civil Legal Assistance Offices. These offices can only help people in their area who are eligible for legal aid but are having difficulties finding legal help or the services of a solicitor.

Website [www.slab.org.uk/civiloffice](http://www.slab.org.uk/civiloffice)

**Aberdeen:** call 0845 267 8077, email [contact@pvs.slab.org.uk](mailto:contact@pvs.slab.org.uk),  
44 Castle Street, Aberdeen, AB11 5BB.

**Edinburgh:** call 0131 240 1960, email [info@pvs.slab.org.uk](mailto:info@pvs.slab.org.uk),  
2nd Floor 8 Picardy Place, Edinburgh, EH1 3JT.

**Highland and Islands:** call 0845 123 2353, email [mail@pvs.slab.org.uk](mailto:mail@pvs.slab.org.uk),  
2nd Floor, 16 Union Street, Inverness, IV1 1PL.

**Argyll and Bute:** call 01546 604 106,  
Argyll and Bute Council Offices, Kilmory Lochgilphead, PA31 8RT.

## Other useful contacts

Free advice is available from organisations such as Citizens Advice Scotland ([www.cas.org.uk](http://www.cas.org.uk)), Money Advice Centres ([www.moneyadvicescotland.org.uk](http://www.moneyadvicescotland.org.uk)) and Shelter (which deals with housing issues, [www.scotland.shelter.org.uk](http://www.scotland.shelter.org.uk)).

## Our leaflets

- Civil legal aid - information for applicants
- Guidance for opponents in civil legal aid cases
- Legal aid for children
- A guide to criminal legal aid
- Complaints and comments about the Scottish Legal Aid Board
- Access to information.

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# 1 What is civil legal assistance?

Civil legal assistance helps people to get legal advice and the help of a solicitor to put their civil case in court.

**It may be free or you may have to pay something towards it.**

Examples of civil matters:

- divorce and other matters affecting families and children
- trying to get compensation for injuries after an accident or for medical negligence
- housing matters such as rent or mortgage arrears, repairs and eviction
- debt and welfare rights
- matters relating to immigration, nationality and asylum.

There are two kinds of help:

- **Advice and assistance.** This helps pay for advice from a solicitor on any matter of Scots law, civil or criminal - for example, to try to settle a dispute for you without going to court. As well as advising you about the matter you have raised, your solicitor can:
  - advise you on whether you have a legal case to take forward
  - try to negotiate with the other party to settle it
  - advise you whether to apply for legal aid to take the matter to court
  - write letters for you or get reports.

- **Civil legal aid.** (Since this leaflet deals only with civil matters, where we refer to “legal aid”, we mean civil legal aid.) This helps pay for your solicitor to act for you in court. It covers the preparation work, as well as the hearing itself, and can provide funding for advocates and experts if needed.

Some people need only advice and assistance, others need only legal aid, and some need both. Many people start the legal process with advice and assistance, and then move on to legal aid.

If you need help with a criminal matter, see our leaflet *A guide to criminal legal aid*. For information on how to access legal aid regarding children’s matters, please see our leaflet *Legal aid for children*. Read how to get these leaflets on the inside front cover.

**If you do not qualify for advice and assistance, you may still qualify for legal aid, and vice versa - ask your solicitor about this.**

## 2 How do I find a solicitor who is registered to give me civil legal assistance?

You must apply through a legal aid solicitor. We do NOT provide legal advice.

This may be a solicitor working in private practice, a law centre or other advice agency, or in one of our Civil Legal Assistance Offices.

To find a solicitor

- call our Legal Aid Information Line on 0845 122 8686
- visit our website [www.slab.org.uk](http://www.slab.org.uk).

Or

- Look in a phone book or contact your local Citizens Advice Bureau.

For contact details for the Board's own Civil Legal Assistance Offices, please see the inside front cover.

## 3 Civil advice and assistance

### 3.1 How do I qualify financially for advice and assistance?

Your solicitor will tell you if you qualify.

Generally, you will qualify if:

- your savings and anything of value that you own (**not including** the home you live in) are worth less than a set amount
- you receive certain benefits
- your weekly disposable income (after you pay certain bills and allowances) is less than a set amount.

These set amounts and benefits change yearly. For the latest figures and online calculator please see our website [www.slub.org.uk](http://www.slub.org.uk) or call our Legal Aid Information Line 0845 122 8686.

For advice and assistance, you will not have to pay a contribution from capital (savings and items of value that you own), but you may still have to pay one from income, depending on how much you get.

You will need to show that help is not available to you from someone else, such as a trade union, insurance company or professional body.

### 3.2 What to take when you see a solicitor for advice and assistance

It is important that you give your solicitor correct information on your financial position: your income, savings and dependants (children or other people you are supporting). You should take:

- recent wage slips, or accounts if you are self-employed
- pension payment advice from an ex-employer or your pension or benefit book
- current benefit award letters or notifications
- details of all savings or accounts - bank/building society/post office statement or passbook etc.

If you do not provide this evidence at the start, your application may be delayed. Your solicitor can only start working for you if they are satisfied that the information you have given about your financial circumstances is right.

Your solicitor or the Board may write to other people such as your employer, bank or government benefits offices to check the information you provide. If you do not help with our enquiries your solicitor will have to stop working for you and you will have to pay us back anything we have paid for your case.

If you are married or living with a partner, your solicitor will need also to know the same information about their income and savings, unless:

- you are separated
- they are the person you have a legal problem with
- it would be unfair or too difficult to do so.

### **3.3 What happens if I am refused advice and assistance?**

If you do not qualify for advice and assistance, you may still qualify for legal aid, and vice versa - ask your solicitor about this.

## 4 Civil legal aid

### 4.1 What will legal aid cover?

If advice and assistance will not solve your problem, and you need to take your case to court, you may need to apply for legal aid.

Your solicitor **cannot** represent you in court under legal aid for some kinds of case, such as:

- small claims of less than £3,000, unless the claim involves personal injury
- some actions relating to bankruptcy.

However, they may be able to advise you on these under advice and assistance.

### 4.2 How do I qualify for legal aid?

You and your solicitor will fill in application forms about your case and financial situation, and send these to us. We will then assess your application.

To grant legal aid, we have to decide that:

- you qualify financially
- you have a legal basis for your case (called “probable cause”)
- it is reasonable to use public funds to support your case - for example, it may not be reasonable to grant legal aid if the person you are trying to sue has no money; your case will cost much more than it is worth; it looks unlikely that you will succeed, you are using the wrong court, or if have not fully considered other ways of sorting out the problem, before you take court action.
- help is not available to you from someone else - like a trade union, insurance company (some types of case might be covered by say, your household or car insurance policy) or professional body.

Some people pay nothing towards legal aid, others might have to pay something towards it, and some might not be financially eligible at all.

This depends on your (and, if applicable, your partner's) yearly disposable income and disposable capital (savings and items of value you own). These limits change yearly - check on our website [www.slab.org.uk](http://www.slab.org.uk) for the latest figures and financial calculator or call our Information Line on 0845 122 8686.

#### **4.3 What forms do I have to fill in about financial eligibility?**

Your solicitor will give you a form to complete depending on the type of income (such as wages and benefits) that you (and if applicable your partner) receive. The form comes with guidance to help you complete it. It is important that you read the guidance carefully and follow it. If you do not, it could delay your getting legal aid or mean we refuse your application.

You can contact our financial assessment unit (see the inside front cover) if you have any queries about your financial eligibility.

#### **4.4 What if I need work doing urgently?**

Before we decide whether we can grant you legal aid, your solicitor may be able to do urgent work on your behalf in court - for example, to apply for an order to prevent someone assaulting you. However, you may still have to pay us for this work.

#### **4.5 Will the opponent in my case know I have applied for legal aid?**

When we receive your application, we will normally tell your opponent that you have applied for legal aid, unless:

- your solicitor asks us not to do so, and
- we agree that this is appropriate (for example, if you are the victim of domestic violence or your opponent is likely to get rid of their assets if they know you have applied for legal aid)
- the opponent's whereabouts are unknown.

Your solicitor will complete a “statutory statement”. This describes what your legal aid application is for. We will send a copy of that statement to your opponent, unless this is inappropriate, but we will not give any other details about you.

The opponent has the right to give us information about the case or other reasons why you should not receive legal aid. This is called “making representations”. We will consider your opponent’s representations and, if necessary, investigate further. This may mean that it takes longer for us to decide about your application.

We will normally tell your opponent whether we granted or refused legal aid.

Your opponent can tell us at any time in your case if there has been any change that might affect the grant of legal aid. But we ask you to comment on what your opponent has told us, if we are considering withdrawing your legal aid.

#### **4.6 What happens if you refuse legal aid?**

We will tell you and your solicitor why. Through your solicitor, you can ask us to review our decision. Your solicitor will tell you what options are open to you.

Your solicitor may be willing to take your case on by charging you their private rate (see section 10).

#### **4.7 If you refuse legal aid, can I apply again?**

Yes. If your circumstances have changed or you can provide new information about your case, we may reach a different decision.

## **5 If I do not qualify for advice and assistance or civil legal aid, how can I get free advice?**

Free advice is available from organisations such as Citizens Advice Scotland, Money Advice Centres or Shelter (which deals with housing issues). See the inside front cover of this leaflet for contact details. You may also find that you can get help through your union or insurers.

## 6 What might I have to pay?

### 6.1 Is civil legal assistance free?

Legal assistance is not always free. It may be free or you may have to pay something towards costs if:

- your income - and, for legal aid, savings and other capital (items of value that you own) are above a certain level (we call this a *contribution*, and you may get some or all of it back at the end of the case, if we do not need it all to cover the cost of the case)
- you keep or gain anything (money or property) as a result of your legal aid or advice and assistance
- you lose the case - you may have to pay your opponent's costs.

We will pay your solicitor's bill. However, we have a responsibility to try to get back the money we have paid.

For advice and assistance to cover the costs, we will use:

- first, any contributions you pay (see section 6.3) - which depend on your income
- second, any costs your opponent pays
- third, if the first two are not enough, part or all of any money or property you win or keep (this is known as "clawback" - see section 6.4) unless you can show that to do so would cause you grave hardship or distress
- fourth, if the first three are not enough, our own funds.

If you do have to pay something, you pay your solicitor direct for advice and assistance. They can do work only up to a set financial limit under advice and assistance, or can ask our permission to go above these limits.

For legal aid to cover the costs, we will use:

- first, any costs your opponent pays
- second, any contribution you have to pay to us
- third, if these first two are not enough, part or all of any money or property you win or keep (see section 6.4)
- fourth, if these are not enough, our own funds.

We cannot refund any contributions you have made until we receive money from your opponent, unless you have paid us more than we paid your solicitor.

Sometimes, your opponent may take a long time to pay or not pay the expenses at all. And if your opponent is also getting legal aid, the court may reduce what they have to pay. If the opponent does not pay, or what they pay does not cover the cost of the legal aid we have given you, we will have to use contributions and property you win or keep.

## 6.2 If you lose the case

Legal aid does not cover your opponent's costs. So if you lose your case, you could be asked to pay some or all of your opponent's costs. You must pay any such costs yourself - we cannot pay them. As you are getting legal aid, you can ask the court to reduce the amount you have to pay.

### 6.3 Contributions

If you do have to pay a contribution, the amount will depend on your disposable income, savings and property. We measure income from the date of application and capital (savings and items of value that you own) for as long as your case lasts.

For more information on how often you will have to pay, and the size of instalments, please see our website [www.slab.org.uk](http://www.slab.org.uk) or contact our financial assessment unit.

For *advice and assistance*, your solicitor should tell you at the start of your case:

- what you have to pay, if anything
- whether you might have to pay out of any money you keep or win.

For *legal aid*, your solicitor should be able to tell you if you are likely to have to pay anything. But if we decide to grant legal aid, we will tell you:

- exactly how much your contribution, if any, will be (you pay this to us)
- how long you can take to pay.

You can normally pay contributions from income in monthly instalments. Generally, the more you have to pay, the more time we will give you.

If your contribution is based on your capital (savings and items of value that you own), we will normally ask you to pay this in one lump sum.

When you apply, it is important that you ask your solicitor to calculate and tell us the likely cost of your case. This may save you money, as we can initially limit any contribution you must pay to the amount that your solicitor estimates.

But if the case ends up costing more than the estimate, we will work out the difference that you need to pay. You may get some of your contribution back if the case costs less than you have paid us, or if we get back some of the costs from your opponent.

If you think that we have calculated your contribution wrongly you can ask us to reconsider it.

## What if I have difficulty paying?

Tell us immediately if you have difficulty paying, so we can try to help you. If you can show that your financial position has changed for the worse, we may be able to reduce the amount we ask you to pay.

## What if I don't pay my contribution, miss payments or change my mind?

Your legal aid will stop. This means your solicitor will have to stop working for you under legal aid. To cover the cost of your case, you will still have to pay the rest of your contribution, or the amount we have paid your solicitor, whichever is less.

## 6.4 Property won or kept and “clawback”

“Property” means anything that can be owned, like a house, something else of value, or money.

If, as a result of receiving advice and assistance, or legal aid, you get some property that you didn't own before, you will have “won” or “recovered” it.

If you keep some property that someone had tried to take from you, you will have “kept” or “preserved” it.

Some examples are:

- a house
- shares
- life policies
- money your spouse or partner pays you when you divorce or dissolve a civil partnership
- a payment made by the Criminal Injuries Compensation Authority
- a payment of compensation from any other source.

You may have to pay some or all of it to us to cover what we have paid to your solicitor. This is sometimes called “clawback”.

You should ask your solicitor to:

- tell you at the start of your case whether clawback could apply
- keep you informed of any changes in your case that could affect this
- tell you how much you may have to pay.

In some cases, such as matrimonial and civil partnership cases, part of the property may be exempt from clawback. The levels change each year; for the latest figures please see our website [www.slab.org.uk](http://www.slab.org.uk) or call our Information Line on 0845 122 8686.

For advice and assistance, we can take into account whether paying from the property won or kept would cause you grave hardship or distress.

If we have to pay your solicitor because you have not paid them from property you have kept or won as a result of your advice and assistance, we have the right to take legal action to get the money back from you.

For legal aid, we cannot take grave hardship or distress into account.

**Will you take all the money or property I win or keep?**

We will only take enough to cover any shortfall between what we have paid out in your case and:

- any expenses your opponent has paid, and
- any contribution you have paid.

If your opponent delays paying the expenses, we will hold back enough of the money to cover that amount. We will put it in an interest-earning account and pay you the interest.

**If someone keeps or wins their home as part of their case, would they have to sell it to pay the amount due?**

No. We will ask you to pay us by instalments.

Or you could delay paying until you sell the house - which could be years later. If you do this, when you sell you will also have to pay interest on the amount due. We would take a *standard security* on your home to make sure we receive the money eventually. Your solicitor can tell you what is involved in this.

## 7. What are my responsibilities?

Legal aid is publicly funded, so if you apply for or are granted it, you must:

- give us accurate information
- tell us about any changes in your circumstances
- act in a way that does not waste money.

### 7.1 How should I run my civil legal aid case?

You and your solicitor decide how to run the case. Remember that every time you contact your solicitor with a question, and each time they do something for you (including writing letters, having meetings or making telephone calls), the cost of your case can go up. And you may have to pay some or all of these costs.

You should ask your solicitor to estimate how much your case is likely to cost and to tell you if this estimate changes as your case proceeds. This is what a privately paying client would probably do, and you should do the same.

You must not ask your solicitor to handle your case in a way that may cause unnecessary expense, for example, rejecting a reasonable offer to settle, or constantly changing the basis of your case.

Please keep in touch with your solicitor, and deal promptly with any requests for information from them or us.

## 7.2 What will happen if I don't tell you about changes?

The information you give about your financial circumstances must be complete and accurate. If you give us false information:

- we may stop your legal aid
- you may have to repay the cost of legal aid you have received for your case
- criminal proceedings may be taken against you.

## 7.3 What if my circumstances change after I complete the civil legal aid financial form or after you grant legal aid?

You must tell us straight away about any changes that could affect your case. You must do this if you have applied for legal aid and are still waiting for a decision, or if we have already granted you legal aid.

These changes could affect whether you qualify financially, and increase or decrease any contribution you have to pay towards the cost of the case, depending on the circumstances.

You must tell us of any changes in your partner or spouse's circumstances.

When you contact us, please have your reference number to hand or quote it on any correspondence.

You and your solicitor must tell us about any changes that could affect your entitlement to legal aid. Your solicitor has to report to us regularly, and should give you a copy of these reports. If we consider withdrawing legal aid because of something in these reports, we will give you the opportunity to comment on them.

#### **7.4 For how long do I have to tell you about these changes?**

We need to know about any significant change to your income during the 12 months after we receive your application, even if your solicitor is no longer working on the case, or the case has ended.

You must tell us immediately if your annual income increases by £500 or more, or decreases by £200 or more, during the one-year period.

Changes to your income after the 12-month period will not affect the total you pay, although we might ask you to pay it in fewer (or more) instalments.

You must tell us if your capital increases by £500 or more during the lifetime of your case, or while you are paying contributions - whichever is the longer. Changes to capital during the lifetime of the case could affect any contribution you may have to pay towards the cost of your case.

## 7.5 Some examples of the sorts of things we need to know about are:

- changes to your address, employment or any other personal details
- if you start to receive, or stop receiving, benefits
- changes to your income, or to expenses or benefits to do with your work
- someone starting or stopping living with you
- you, or someone over 18 who is living with you, getting or losing a job
- changes to payments for rent, board, mortgage, council tax, maintenance, childcare, travel or private pension schemes
- the value of all land and buildings you or your partner own, except the home you live in, including interest in a timeshare
- redundancy payments
- money that can be borrowed against insurance policies
- the value of non-essential possessions such as a boat, caravan, second car, jewellery (but not wedding or engagement rings), antiques or items bought for investment
- money that is owed to you or your partner
- anything you win, or are given
- savings and investments of any kind
- payments from maturing life assurance or other similar policies that are worth more than £500
- money or property due from the will of someone who has died
- money due from a trust fund
- money that can be borrowed against business assets
- money you receive from any other source that increases the amount of capital you had when you applied by £500 or more
- anything else happens that affects your financial situation.

## 7.6 What will happen when I tell you about changes?

Legal aid will not stop while we reassess your eligibility; your solicitor can continue with your case. We just need to make sure you are paying the correct amount towards the cost of your case.

## 8 Can I change solicitor?

Yes, but we have to be satisfied that you have a good reason for this, and that it is still reasonable for you to continue to receive legal aid. Good reasons include:

- the ill health or death of the solicitor who has been acting for you
- your moving away from the area where your solicitor works, making it more convenient for you to visit another solicitor.

We would be unlikely to agree to your changing your solicitor if you just changed your mind about who you wanted to act for you.

## 9 Can you withdraw legal aid?

We may decide we should withdraw your legal aid - for example, if:

- your financial circumstances change and you no longer qualify
- you are conducting the case unreasonably
- you have made a false declaration
- you do not pay a contribution we have decided you should pay.

If this happens, we will give you the opportunity to tell us why you think we should not withdraw legal aid.

## 10 What if my solicitor suggests working privately for me or charging me while I have legal aid?

Your solicitor cannot ask you to pay privately for work done on a case that you are getting legal assistance for. They can only ask you to pay towards the case for any times that neither *advice and assistance* nor *civil legal aid* were in place.

If we grant you legal assistance, your solicitor may have to get our agreement to carry out extra work (such as hiring experts or advocates). If we don't agree that your solicitor can do the extra work or spend more money, they cannot ask you to pay separately for this while continuing with *advice and assistance*, or legal aid, for your case.

If we refuse you legal aid, or your legal aid or *advice and assistance* stops, your solicitor may suggest working privately for you. If this happens:

- ask them to explain fully their reasons for this
- make sure you understand and agree to their terms of business before they start working for you.

### 10.1 Do I have any say about how much you pay my solicitor?

What we pay solicitors is set by law, and we check their bills to ensure that the work done and cost are reasonable.

## 11 What can I expect from the Scottish Legal Aid Board?

For service standards please see our website [www.slab.org.uk](http://www.slab.org.uk).

### 11.1 How will you use the information I give you?

See our leaflet “Access to information” which is available on our website [www.slab.org.uk](http://www.slab.org.uk).

## 12 What can I expect from my solicitor?

Your solicitor should:

- explain to you what having legal assistance will mean for you - including what you may have to pay for your case
- deal with your case in the most efficient and effective manner
- keep you informed about what is happening with your application for legal aid and with your case.

Your legal aid covers all your expenses in the case, for the time legal aid is in place, including the cost of experts or advocates where we have agreed to these. Your solicitor should not ask you to pay them anything towards the case, except for any contribution assessed for advice and assistance. Of course, you may have to pay us the sums mentioned in section 6.

### 12.1 What if I am unhappy with how you or my solicitor has acted?

Our leaflet *Complaints and comments about the Scottish Legal Aid Board* explains our own complaints procedure and who to complain to about other individuals or organisations. To get this please see our contact details on the inside cover of this leaflet. Or you can find the leaflet on our website at [www.slab.org.uk](http://www.slab.org.uk).

**Please:**

- keep this leaflet in a safe place to refer to later
- read this leaflet carefully before you complete the financial eligibility form for civil legal aid
- discuss with us anything you do not understand about your financial eligibility or the financial forms you need to fill in, you can call our financial assessment unit on 0845 123 2330
- discuss with your solicitor anything you do not understand about your case, as soon as possible, preferably before you ask them to do any work for you under legal aid, and before you pay the first instalment of any contribution, it is important that you understand what you may have to pay
- have your reference number to hand when you contact us, and quote it in any correspondence.



يمكنكم الحصول على نسخة من هذه النشرة " المساعدات القانونية في القضايا المدنية \*  
معلومات لمقدمي الطلبات " باللغة العربية بالاتصال على مجلس المساعدات القانونية  
الاسكتلندي على العنوان المدون على صفحة الغلاف الأمامي من الداخل.

আপনি এই পুস্তিকা “সিভিল লিগ্যাল এইড \* আবেদনকারীর জন্য তথ্য” বাংলায় পেতে

চাইলে স্কটিশ লিগ্যাল এইড বোর্ডের সাথে যোগাযোগ করুন যাদের ঠিকানা ভেতরের সামনের

পাতায় দেওয়া আছে ।

與蘇格蘭法律援助委員會聯繫可獲取中文版的“民事法律援助申請人資訊”活頁，  
聯繫地址見封面內頁。

Is urrainn dhut a' bhileag seo "Taic laghail chatharra - fiosrachadh do thagraichean" fhaighinn ann an Gàidhlig, le fios a chur gu Bòrd Taic Laghail na h-Alba aig an t-seòladh a tha air an taobh a-staigh den chòmhdach aghaidh.

आप इस पुस्तिका "आवेदनकर्ताओं के लिए दीवानी कानूनी सहायता सूचना [Civil legal aid \* information for applicants]" को ऊपरी कवर के भीतर दिये पते पर स्कॉटलैंड के कानूनी सहायता बोर्ड से संपर्क करके हिंदी में प्राप्त कर सकते हैं।

与苏格兰法律援助委员会联系可获取中文版的“民事法律援助申请人信息”活页，  
联系地址见封面内页。

ਤੁਸੀਂ ਪੰਜਾਬੀ ਵਿਚ ਇਹ ਲਿਫ਼ਲੈਟ "ਅਰਜੀ ਦੇਣ ਵਾਲਿਆਂ ਲਈ ਸਿਵਲ ਕਾਨੂੰਨੀ ਸਹਾਇਤਾ\* ਜਾਣਕਾਰੀ [Civil legal aid \* information for applicants]" ਪੰਜ ਪੰਨੇ ਦੇ ਅੰਦਰ ਚਿੱਠੀ ਬਣੇ ਪਤੇ ਤੇ ਸਕਾਟਲੈਂਡ ਕਾਨੂੰਨੀ ਸਹਾਇਤਾ ਬੋਰਡ ਨਾਲ ਸੰਪਰਕ ਕਰਕੇ ਪ੍ਰਾਪਤ ਕਰ ਸਕਦੇ ਹੋ।

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