

GUIDANCE NOTES

SPECIAL URGENCY REQUEST – CIV/SU4

GENERAL

Please read these notes with the explanatory notes on the form itself.

Unless shown otherwise, you must answer all the questions. We will return the form to you if questions are left unanswered.

- If you cannot provide an answer to a question, mark the box as “not applicable” or “not known”.
- **Do not** leave any of the boxes blank unless the form directs you not to answer a particular question.

To ensure that we do not miss relevant information about the application:

- Use the CIV/SU4 form – but use a covering letter for any additional explanation or details that you wish to include.
- If you need more space, use Section G and clearly state to which question(s) the information relates.
- If, in exceptional circumstances, Section G does not provide enough space, photocopy that page and attach it securely to the form.
- Type the form or complete it legibly in **black ink**.

When should the CIV/SU4 form be used?

- If you are applying for the Board’s certification under regulation 18(1)(b) you must use the CIV/SU4 form.

If we grant the CIV/SU4 application, you do not need to notify us that work has been done. However, it is important that, if you have not already sent us an application for legal aid, you do so within 28 days of beginning the urgent work. **If you do not, we will not pay you for the work you do.**

- Use the CIV/SOL form, not CIV/SU4, to tell us about work you have done under regulation 18(1)(a).
- Alternatively, use the CIV/SU2 where you have to take steps under regulation 18(1)(a) and you have not yet received a decision on the CIV/SOL application.

SECTION A

(Questions 1-17) – Details of the applicant

You must give us all the details we ask for about the applicant.

You should enter only the applicant's details here. It is the **applicant's** financial eligibility we will assess when the civil legal aid application is submitted. Where the applicant is, for example, a child or an incapacitated adult, you should enter their details here.

Actions under the Adults with Incapacity (Scotland) Act 2000

- Where the applicant is seeking an order for guardianship under the Adults with Incapacity (Scotland) Act 2000, it is that person's details that should be included here. Remember, if that person is **not** the incapacitated adult, it is the incapacitated adult's financial details that should be included in the CIV/SU/MAN form and any subsequent CIV/FIN/1 or CIV/FIN/2.
- Where the applicant is opposing an order for guardianship under the Adults with Incapacity (Scotland) Act 2000, it is that person's details that should be included here. Regardless of whether that person is the incapacitated adult, it is the incapacitated adult's financial details that should be included in the CIV/SU/MAN form and any subsequent CIV/FIN/1 or CIV/FIN/2.
- Where the incapacitated adult wishes to oppose or seek an order under the Act, but a representative is acting on their behalf, the incapacitated adult is the applicant and the representative's details should be completed at question 13.
- Where a guardian has been appointed and an action is to be raised or opposed for the incapacitated adult, it is the incapacitated adult's details that should be included here. The incapacitated adult's financial details should be included in the CIV/SU/MAN and any subsequent CIV/FIN/1 or CIV/FIN/2. The guardian should complete the representative's details at question 13.

Question 4 – Applicant's National Insurance number

It is very important that we have the applicant's National Insurance number. If you cannot supply this (for example, if the applicant is an asylum seeker or a child) please explain why in the box at question 4.

Question 10 – Other name by which the applicant is known

If the applicant is known by and uses a different name from that in the application, include details here so we address our correspondence in the way they prefer.

For example, Angelina Smith Shepherd may prefer to be known as Angie Shepherd, or Algernon Jacob Jones may wish to be known as Jacob Jones.

Question 12 – Maiden surname of applicant's mother

This information ensures we do not confuse one applicant's details with another's. It helps us identify the applicant where, for example, they have the same name as another applicant, or have given us the wrong National Insurance number.

Question 15 – Does the applicant have a representative who is acting on their behalf

You should always mark the "yes" or "no" box for this question.

For example, if the mother of a young child instructs you on behalf of a child, the mother is acting as a representative. Or, if you are the curator ad litem appointed by the court and wish to enter the child to an action, you are acting as a representative.

Where the applicant is a child, you must have regard to the Law Society of Scotland's guidance on representing children. If the child is under 12 years old, you should confirm in your covering letter that the child is capable of understanding and providing you with instructions.

Where someone is acting on behalf of an applicant, you **must**

- tell us what kind of representative they are
- complete the representative's details at question 15.

SECTION B – DETAILS OF SOLICITOR(S) ACTING

Where two firms are involved in representing the applicant, you should enter details of both firms in this section.

The nominated solicitor should submit the application for special urgency work and sign it at Section F – Declaration.

SECTION C – CASE DETAILS

Questions 1-3 help us find out the basic information about the case.

Question 1 – Nature of the case

You should put a cross in **one** primary category code, and any other ancillary category codes that you seek legal aid for. Only select the craves that you seek legal aid for, not any other craves in the action that you do not wish to defend. For example, do not include divorce as the primary category if you do not seek to defend it. Where the applicant wishes to **counterclaim** in the action, you should tick the box in the third column to show this.

Example 1: If the applicant wishes to pursue divorce on the basis of unreasonable behaviour and a residence order - mark a cross in the column 'P' against 'DIVUN' and a cross in the 'A' column next to the category 'RES'.

Example 2: The applicant wishes to defend the above action, wishes to counterclaim for residence but does not seek legal aid to defend the divorce crave. Mark a cross in the column 'D' against the category 'RES' and a cross in the column 'C' against the category 'RES' again.

Example 3: If the applicant wants legal aid to pursue a personal injuries action – mark a cross in the column 'P' against 'REP'. But remember there are separate categories for different types of reparation and damages proceedings, such as medical negligence, disability discrimination and housing.

Example 4: If the applicant wishes to defend an action for payment and counterclaim for payment – mark a cross in the column 'D' against the category 'PAY' and a cross in the column 'C' against the same category 'PAY'.

We will only consider granting legal aid for the craves you have marked on these two pages. We will not consider any additional craves mentioned in the statutory statement or the applicant's statement.

Question 2 – Applicant's interest in the proceedings

We only need to know the applicant's interest in the proceedings for which legal aid is sought.

Example 1: Where the applicant intends to minute in terms of the Mortgage Rights (Scotland) Act 2001, the applicant is a minuter, not a defender.

Example 2: Where the applicant is a defender but wishes to raise minute proceedings, the applicant is a minuter.

Use the "Other" box –

- where several parties are involved, to show the specific interest of the applicant: for example, "third defender"
- to show where there is a dual interest: for example, if the applicant is concerned in the proceedings in both a personal and representative capacity. ¹

Question 3 – Court

Please show the type and location of the court in which proceedings have been or are to be brought or defended. Schedule 2 of the Legal Aid (Scotland) Act 1986 lists the courts in which civil legal aid is available and excepted proceedings.

SECTION D – NATURE OF URGENT WORK

Question 1 – special urgency

Describe why the work is urgent. For example, the applicant's spouse may have told them that they intend to dispose of matrimonial property or a child may be about to be removed from the country.

If the circumstances are unlikely to occur within four weeks (the period within which we normally assess a legal aid application) we will not normally consider that you need to use the special urgency procedure. You should therefore submit a civil legal aid application instead of the CIV/SU4 form.

Question 2 – details of work

Give us precise details of the work you wish to do. Where we grant the SU4 request, this will be for the work you have specified in the form. To ensure we consider all the work you want to do and to avoid any difficulties at the accounts stage, specify each step you want to take.

If you want to employ counsel, you must also submit a sanction application using the CIV/SANC form. You do not need sanction to employ one junior counsel for a Court of Session case.

If you want to employ an expert, you must also submit a sanction application using the CIV/SANC form.

SECTION E – LEGAL AID APPLICATION

Please tick the appropriate box to show how you intend to submit the associated civil legal aid application. Please note that if you do not submit the civil legal aid application within 28 days of beginning the specially urgent work, we will not pay for that work if we later grant legal aid.

In this section you also confirm that you believe the applicant is financially eligible for civil legal aid. If you do not either send us the completed applicant's mandate form – CIV/SU/MAN – or tick the 'To follow' box, we will register the CIV/SU4 and wait for the CIV/SU/MAN before taking a decision. You must send us the mandate as soon as it is available.

SECTION F – DECLARATION

The solicitor acting for the client must sign the form. The declaration includes consent to release the application and associated documents for quality assurance and stage reporting

You must date this declaration. **If you do not sign and date the declaration, we will return the application to allow you to complete it.**

SECTION G – MORE INFORMATION

Section G gives you more space to answer the questions in the form.

If this section does not allow you enough space, please photocopy the page and attach it securely to the form.