



# Convention Rights (Compliance) (Scotland) Act 2001

2001 asp 7

## PART 3

### LEGAL AID

#### **9 Employment of solicitors by Scottish Legal Aid Board: further provisions**

(1) In section 4 of the 1986 Act, in subsection (3), after paragraph (aa), there is inserted—  
“(aaa) any award of expenses made by a criminal court to a person to whom criminal legal assistance has been provided by a solicitor employed by the Board under sections 26 and 27 of this Act;”.

(2) In section 11 (which includes provision about contributions by clients in respect of advice or assistance by solicitors employed by the Board) of the 1986 Act—

(a) in subsection (1), after “(2)” there is inserted “, (2A)”;

(b) after subsection (2) there is inserted—

“(2A) A client to whom paragraphs (a) and (b) of subsection (2) above apply and to whom criminal legal assistance or advice or assistance which is not criminal legal assistance has been provided by a solicitor employed by the Board under sections 26 and 27 of this Act shall pay to the Board such contribution in that respect as the Board may, subject to subsection (3A) below, determine.”; and

(c) after subsection (3) there is inserted—

“(3A) The amount determined by the Board under subsection (2A) above shall not exceed the amount which would be charged by a solicitor who is not employed by the Board under sections 26 and 27 of this Act.”.

(3) In section 12 of the 1986 Act, in subsection (2) (which provides that the rules in that section about the payment of solicitor’s fees etc. do not apply to the salary of a solicitor employed by the Board under section 28A), after “Board” there is inserted “under sections 26 and 27 of this Act or to the salary payable to a solicitor employed by the Board”.

- (4) In section 25A (Criminal Legal Assistance Register) of the 1986 Act, after subsection (3) there is inserted—
- “(3A) A solicitor employed by the Board under sections 26 and 27 of this Act to provide criminal legal assistance shall require to be registered, and the entry relating to his name on the Register shall include a note that he is so employed; but the Board shall not be regarded as a firm for the purposes of this section, and shall not itself require to be registered.”.
- (5) In section 25B of the 1986 Act, in subsection (2) (which enables provision in the criminal legal assistance code of practice which is different for solicitors employed by the Board under section 28A from that for solicitors generally), after “including” there is inserted “in relation to solicitors employed by the Board under sections 26 and 27 of this Act to provide criminal legal assistance, different provision to reflect the fact that they are so employed and including”.
- (6) In section 26 of the 1986 Act, in subsection (1), in paragraph (a) (which provides that the purposes for which solicitors may be employed by the Board include those of giving advice and assistance to which Part II of the Act applies), there is added at the end “either generally or in cases of any such description as may be prescribed by regulations made under this section”.
- (7) In section 28A (feasibility study of provision of criminal legal assistance by solicitors employed by the Board) of the 1986 Act—
- (a) in subsection (12) (provisions which cease to have effect five years after employed solicitors regulations come into effect)—
- (i) in paragraph (c), for “but does not apply” there is substituted “or”; and
- (ii) in paragraph (e), after “including” there is inserted “, where it second occurs,”; and
- (b) at the end, there is inserted—
- “(15) The power to bring sections 26 to 28 of this Act into force is not affected—
- (a) by the provisions of this section; or
- (b) by the fact that it is exercised before the expiry of the period of five years referred to in subsection (11) above.”.
- (8) In section 31 of the 1986 Act, in subsection (1A) (exceptions to provision entitling person receiving legal aid or advice and assistance to select a solicitor and counsel) there is added at the end “and does not apply where the person is being provided with criminal legal assistance by a solicitor employed by the Board under section 26 and 27 of this Act.”.