

*These notes relate to the Legal Profession and Legal Aid  
(Scotland) Act (asp 5) which received Royal Assent on 19 January  
2007 (asp 5) which received Royal Assent on 19 January 2007*

# **LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT (ASP 5) WHICH RECEIVED ROYAL ASSENT ON 19 JANUARY 2007**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 4 – Legal Aid**

##### ***Section 68: Scottish Legal Aid Board: grants for certain purposes***

180. **Section 68** of the Act amends section 4 of the 1986 Act, which deals with the establishment and management of the Legal Aid Fund, so that the Board will be able to use the Fund to provide grants. It inserts a new section 4A which makes provision as to the Board's power to make grants available. Subsection (1) provides that the Board may, on an application made to it by any person, make grants of such amount and subject to such conditions, including conditions as to repayment, as it may determine to the person in respect of any of the matters mentioned in subsection (2) and in respect of any of the purposes mentioned in subsection (3). Subsection (2) provides that grants can be made in respect of advice and assistance in relation to civil matters or civil legal aid work undertaken by a solicitor or counsel; advice and assistance work in relation to civil matters undertaken by any adviser; or advice or assistance or representation in connection with civil matters which are not otherwise covered. Subsection (3) provides that the grants can be made in respect of work to facilitate, support and develop the provision of the matters set out in subsection (2). Subsection (10) provides that applications made to the Board under subsection (1) must include such information as the Board may reasonably require.
181. Subsections (4) and (5) of the new section 4A specify that the Scottish Ministers must set a financial limit to the total amount of grant that may be paid out of the Fund and a specific period of time to which that limit applies. Subsections (7), (8), (9) and (11) set out the process by which the Board will prepare and publish a plan of the criteria that it must apply when considering grant applications by virtue of subsection (6), that the plan is to be submitted to Scottish Ministers for approval and that Ministers may approve such a plan with or without being subject to modification. Subsection (9) provides that the Scottish Ministers may, at any time, approve a modification of an approved plan proposed by the Board or withdraw the approval of such a plan or modification and may require the Board to prepare and publish a plan. Subsection (11) provides that the Board, when preparing and publishing a plan, must do so in accordance with such directions as the Scottish Ministers may give.
182. Subsection (12) specifies that grant payments are to be made from the Legal Aid Fund. So as to prevent duplication of payment, subsection (13) provides that work which is funded by a grant will not also be funded under the advice and assistance or civil legal aid schemes.

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183. Subsection (14) defines, for the purposes of the section, the term “approved plan”. Subsection (15) specifies that the term “person”, insofar as it is used in section 4A, should be taken to include individuals acting as organisations as well as natural persons. Elsewhere in the 1986 Act the term is generally used to refer to natural persons.