



Legal Profession and Legal Aid (Scotland) Act 2007

2007 asp 5

PART 4

LEGAL AID

65 Criminal legal aid: conditions and reviews

- (1) Section 24 (legal aid in summary proceedings) of the 1986 Act is amended in accordance with subsections (2) to (6) of this section.
- (2) In subsection (1), for “subsection” substitute “subsections (1A), (2) and”.
- (3) After subsection (1) insert—

“(1A) Legal aid made available to a person under subsection (1) may be subject to such conditions as the Board considers expedient; and such conditions may be imposed at any time.”
- (4) In subsection (2), after “that” insert “—
 - (a) after consideration of the financial circumstances of the person, the expenses of the case cannot be met without undue hardship to him or his dependants;
 - (b)”.
- (5) After subsection (5) insert—

“(5A) The Board shall establish a procedure under which any person receiving criminal legal aid under this section which is subject to conditions by virtue of subsection (1A) may apply to the Board for a review of any such condition.”
- (6) In subsection (6)—
 - (a) the word “has either” is repealed;
 - (b) at the beginning of paragraph (a) insert “has”;
 - (c) at the end of paragraph (a) “or” is repealed;
 - (d) at the beginning of paragraph (b) insert “has”;

- (e) at the end of paragraph (b) insert “; or
 - (c) is no longer receiving criminal legal aid in connection with proceedings because the Board is no longer satisfied as to the matters mentioned in paragraphs (a) and (b) of subsection (1)”.
- (7) Section 25 (legal aid in appeals) of the 1986 Act is amended in accordance with subsections (8) and (9) of this section.
- (8) After subsection (2A) insert—
 - “(2B) Where a person is no longer receiving criminal legal aid because the Board is no longer satisfied as mentioned in subsection (2)(c) above the High Court may, at any time prior to the disposal of the appeal, whether or not on application made to it, notwithstanding the Board no longer being so satisfied, determine that it is in the interests of justice that the person should receive criminal legal aid in connection with the appeal, and the Board shall forthwith make such legal aid available to him.
 - (2C) Legal aid made available to a person under subsection (2) may be subject to such conditions as the Board considers expedient; and such conditions may be imposed at any time.”.
- (9) After subsection (3) insert—
 - “(3A) The Board shall establish a procedure under which any person whose application for criminal legal aid under subsection (2) has been refused may apply to the Board for a review of his application.
 - (3B) The Board shall establish a procedure under which any person receiving criminal legal aid under subsection (2) which is subject to conditions by virtue of subsection (2C) may apply to the Board for a review of any such condition.”.
- (10) Section 25AB (legal aid in references, appeals or applications for special leave to appeal to the Judicial Committee of the Privy Council) is amended in accordance with subsections (11) and (12) of this section.
- (11) After subsection (2) insert—
 - “(2A) Legal aid made available to a person under subsection (2) may be subject to such conditions as the Board considers expedient; and such conditions may be imposed at any time.”.
- (12) After subsection (3) insert—
 - “(3A) The Board shall establish a procedure under which any person whose application for criminal legal aid under subsection (2) has been refused may apply to the Board for a review of his application.
 - (3B) The Board shall establish a procedure under which any person receiving criminal legal aid under this section which is subject to conditions by virtue of subsection (2A) may apply to the Board for a review of any such condition.”.