

SCHEDULES

SCHEDULE 1

Section 1.

LEGAL AID, ADVICE AND ASSISTANCE

PART I

ENGLAND AND WALES

- 1 Section 9(3) of the Legal Aid Act 1974 (recalculation of contribution to legal aid fund) shall cease to have effect.
- 2 The following section shall be substituted for section 12 of that Act (panels of solicitors and counsel):—

“12 Selection of solicitors and counsel.

- (1) A person entitled to receive advice or assistance or legal aid may select—
 - (a) the solicitor to advise or assist or act for him, and
 - (b) if the case requires counsel, his counsel,and he shall be entitled to make the selection himself.
- (2) Subsection (1) above shall not prejudice the law and practice relating to the conduct of proceedings by solicitor or counsel, or the circumstances in which a solicitor or counsel may refuse or give up a case or entrust it to another.
- (3) A scheme made under section 15 of this Act may provide for the exclusion (whether permanently or temporarily) of a solicitor or barrister from those who may be selected under subsection (1) of this section on the ground that there is good reason for excluding him arising out of—
 - (a) his conduct when giving or selected to give advice or assistance, his conduct when acting or selected to act for persons receiving legal aid, or his professional conduct generally, or
 - (b) in the case of a member of a firm of solicitors, such conduct on the part of any person who is for the time being a member of the firm.
- (4) Where a barrister or solicitor is aggrieved by any decision so excluding him, he may appeal against the decision to the High Court, and the High Court (whose decision shall be final) may confirm or quash the decision appealed against or may substitute such decision as the court thinks fit.
- (5) Provision shall be made by rules of court for regulating appeals to the High Court under subsection (4) above, and those rules shall provide for limiting the time within which appeals may be brought.
- (6) In the preceding provisions of this section references to acting for a person receiving legal aid shall, in relation to a solicitor, include acting indirectly

Status: This is the original version (as it was originally enacted).

for such a person, as agent for his solicitor, but so that any selection of the solicitor to act as agent shall be made by the solicitor for whom he is to act.”.

- 3 In section 30(11) of that Act, for the words "section 5 of the Fugitive Offenders Act 1881 " there shall be substituted the words " section 7 of the Fugitive Offenders Act 1967 ".

PART II

SCOTLAND

- 4 In section 6 of the Legal Aid (Scotland) Act 1967 (solicitors and counsel), as amended by section 6(1)(b) of the Legal Advice and Assistance Act 1972, for subsections (1), (2) and (3) there shall be substituted respectively the following subsections—

- “(1) A person entitled to receive advice or assistance or legal aid may select—
- (a) the solicitor to advise or act for him, and
 - (b) if the case requires counsel, his counsel,
- and he shall be entitled to make the selection himself.
- (2) Subsection (1) above shall not prejudice the right of a solicitor or advocate to refuse or give up a case or entrust it to another solicitor or advocate where he has good reason to do so.
- (3) (a) The Law Society in the case of a solicitor, or the Faculty of Advocates in the case of an advocate may exclude him (whether permanently or temporarily) either from being selected under subsection (1) of this section, or from giving advice or assistance to or from acting for a person receiving legal aid, on the ground that there is good reason for excluding him arising out of—
- (i) his conduct when acting or selected to act for persons receiving advice or assistance or legal aid,
 - (ii) his professional conduct generally, or
 - (iii) in the case of a member of a firm of solicitors, such conduct on the part of any person who is for the time being a member of the firm.
- (b) Where a solicitor or advocate is aggrieved by any decision so excluding him, he may appeal against his exclusion to the Court of Session, and the Court in determining such an appeal may make such order as it thinks fit.”;

and after subsection (3) there shall be inserted the following subsection—

- “(3A) Where in pursuance of arrangements made by the Law Society in accordance with any scheme for the time being in force under section 8 of this Act a solicitor is available in any court for the special purpose of giving legal aid in connection with criminal proceedings in that court, the scheme may specify proceedings in which an accused person shall not be entitled to legal aid in that court otherwise than by representation by that solicitor.”.