

SCHEDULE 2

CRIMINAL PROCEDURE RULES 1996

PART VII

Miscellaneous procedures

CHAPTER 33

LEGAL AID

Interpretation of this Chapter

33.1. In this Chapter, unless the context otherwise requires—

“the Act of 1986” means the Legal Aid (Scotland) Act 1986⁽¹⁾;

“assisted person” means a person who is in receipt of criminal legal aid in the proceedings in question;

“the Regulations” means the Criminal Legal Aid (Scotland) Regulations 1987⁽²⁾.

Legal aid in High Court

33.2. Where an application for legal aid is made to the High Court under section 23 of the Act of 1986⁽³⁾ (power of the court to grant legal aid), the court may—

- (a) determine the application itself; or
- (b) remit the application to the sheriff court for determination.

Discontinuance of entitlement to legal aid

33.3.—(1) Where the court before which there are proceedings in which an assisted person is an accused or appellant is satisfied, after hearing that person—

- (a) that he—
 - (i) has without reasonable cause failed to comply with a proper request made to him by the solicitor acting for him to supply any information relevant to the proceedings,
 - (ii) has delayed unreasonably in complying with any such request,
 - (iii) has without reasonable cause failed to attend at a diet of the court at which he has been required to attend or at a meeting with the counsel or solicitor acting for him under the Act of 1986 at which he has reasonably and properly been required to attend,
 - (iv) has conducted himself in connection with the proceedings in such a way as to make it appear to the court unreasonable that he should continue to receive criminal legal aid,
 - (v) has wilfully or deliberately given false information for the purpose of misleading the court in considering his financial circumstances under section 23(1) of the Act of 1986, or

(1) 1986 c. 47.

(2) S.I. 1987/307.

(3) Section 23 was amended by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40), Schedule 4, paragraph 63(4).

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(vi) has without reasonable cause failed to comply with a requirement of the Regulations,
or

(b) that it is otherwise unreasonable for the solicitor to continue to act on behalf of the assisted person in the proceedings,

the court may direct that the assisted person shall cease to be entitled to criminal legal aid in connection with those proceedings.

(2) Where a direction is made under paragraph (1) of this rule in the course of proceedings to which section 22 of the Act of 1986(4) (automatic availability of criminal legal aid) applies, the accused shall not be entitled to criminal legal aid in relation to any later stages of the same proceedings before the court of first instance.

(3) Where a court issues a direction under paragraph (1), the clerk of court shall send notice of it to the Scottish Legal Aid Board.

(4) Where a court of first instance has made a direction under paragraph (1)(a), it shall instruct the clerk of court to report the terms of the finding made by the court to the Scottish Legal Aid Board for its consideration in any application for criminal legal aid in an appeal in connection with the proceedings in that court.

Statements on oath

33.4. In considering any matter in regard to the entitlement of a person to criminal legal aid, the court may require that person to make a statement on oath for the purpose of ascertaining or verifying any fact material to his entitlement to criminal legal aid.

Intimation of determination of High Court

33.5. The Clerk of Justiciary shall intimate to the Scottish Legal Aid Board any decision of the High Court made under section 25(2A) of the Act of 1986(5) (determination by High Court that applicant should receive legal aid).

(4) Section 22 was amended by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995, Schedule 4, paragraph 63(3).

(5) Subsection (2A) of section 25 was inserted by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995, Schedule 4, paragraph 63(7).