

2007 No. 560

INQUIRIES

The Inquiries (Scotland) Rules 2007

Made - - - - - *13th December 2007*

Laid before the Scottish Parliament *14th December 2007*

Coming into force - - - *19th January 2008*

The Scottish Ministers make the following Rules in exercise of the powers conferred by section 41 of the Inquiries Act 2005(a) and all other powers enabling them to do so.

Citation, commencement and extent

1.—(1) These Rules may be cited as the Inquiries (Scotland) Rules 2007 and come into force on 19th January 2008.

(2) These Rules extend to Scotland and, insofar as they extend beyond Scotland, they do so only as a matter of Scots law.

Interpretation

2.—(1) In these Rules—

“the Act” means the Inquiries Act 2005;

“applicant” means a person making an application for an award under section 40(1) (expenses of witnesses etc.) of the Act;

“award” means an award made under section 40(1) of the Act;

“core participant” means a person designated as such under rule 4;

“counsel to the inquiry” means a qualified lawyer, if any, who is appointed by the chairman to act as counsel for the inquiry;

“designated email address” means—

(a) in the case of the inquiry, an email address notified to a witness (and the witness’s recognised legal representative, if any) by the secretary to the inquiry, in whatever manner the secretary sees fit, for the purpose of sending or receiving documents relating to the inquiry by email; and

(b) in the case of any other person, an email address notified in writing by a person to a member of the inquiry team, for the purpose of sending or receiving documents relating to the inquiry by email;

“designated fax number” means—

(a) in the case of the inquiry, a fax number notified to a witness (and the witness’s recognised legal representative, if any) by the secretary to the inquiry, in whatever manner the secretary sees fit, for the purpose of communication by fax; and

(a) 2005 c.12.

- (b) in the case of any other person, a fax number notified in writing by that person to a member of the inquiry team for the purpose of communication by fax;

“designated postal address” means–

- (a) in the case of the inquiry, an address notified to a witness (and the witness’s recognised legal representative, if any) by the secretary to the inquiry, in whatever manner the secretary sees fit, for the purposes of sending documents by post or leaving documents; and
- (b) in the case of any other person, an address notified by that person in writing to a member of the inquiry team for the purposes of sending documents by post or leaving documents;

“the inquiry” means an inquiry (including a joint inquiry) which the Scottish Ministers cause to be held under section 1 of the Act or which they convert under section 15 of the Act into an inquiry under the Act;

“inquiry hearing” means an oral hearing conducted during the course of the inquiry;

“inquiry record” means all documents given to or created by the inquiry;

“inquiry team” means–

- (a) the inquiry panel;
- (b) the counsel to the inquiry (if any);
- (c) the secretary to the inquiry;
- (d) the solicitor to the inquiry;
- (e) any assessor appointed under section 11 of the Act; and
- (f) any other person engaged (whether as an employee or under a contract for services) to provide administrative, legal or managerial assistance to the inquiry or to assist in any investigations which the inquiry may conduct;

“qualified lawyer” means–

- (a) a solicitor or advocate in Scotland;
- (b) a solicitor or barrister in England and Wales;
- (c) a solicitor or barrister in Northern Ireland;

“recognised legal representative” means a qualified lawyer appointed under rule 5 or approved under rule 6 as the case may be;

“secretary to the inquiry” means a person appointed by the chairman to carry out (with the assistance of any deputies who are so appointed) the administration and management of the inquiry;

“solicitor to the inquiry” means the qualified lawyer appointed by the chairman to act as solicitor for the inquiry;

“warning letter” means a letter sent by the chairman to a person during the course of the inquiry under rule 12; and

“witness” means any person from whom the inquiry panel proposes to take either written or oral evidence.

(2) In these Rules, references to things to be published or written include publishing and writing by electronic means.

Manner of proceedings etc.

Documents

3. Any requirement under these Rules that a document is to be given or sent, either to the inquiry or to any person, is satisfied by that document being–

- (a) delivered in person;
- (b) left at a designated postal address;

- (c) sent to a designated postal address by first class post;
- (d) faxed to a designated fax number; or
- (e) sent to a designated email address.

Core participants

4.—(1) The chairman may designate a person as a core participant at any time during the course of the inquiry (but only with the consent of that person).

(2) In deciding whether to designate a person as a core participant the chairman must have particular regard for the desirability of including as core participants persons who—

- (a) played, or may have played, a direct and significant role in relation to the matters to which the inquiry relates;
- (b) have a significant interest in an important aspect of the matters to which the inquiry relates; or
- (c) may be subject to significant or explicit criticism—
 - (i) during the proceedings at the inquiry, or
 - (ii) in the report (or any interim report) to be delivered under section 24 of the Act (submission of reports).

(3) The chairman may, before the end of the inquiry, specify in writing that a person ceases to be a core participant.

Recognised legal representative

5.—(1) Paragraph (2) applies where—

- (a) a core participant, other than a core participant referred to in rule 6; or
- (b) any other person required or permitted to give evidence or to produce documents or any other thing during the course of the inquiry,

has appointed a qualified lawyer to act on that person's behalf.

(2) The chairman must regard that lawyer as that person's recognised legal representative in respect of the proceedings at the inquiry.

6.—(1) Paragraph (2) applies where—

- (a) there are two or more core participants, each of whom seeks to be legally represented; and
- (b) the chairman considers that—
 - (i) their interests in the outcome of the inquiry are similar;
 - (ii) the facts they are likely to rely on during the course of the inquiry are similar; and
 - (iii) it is fair and proper for them to be jointly represented.

(2) The chairman may—

- (a) direct that those core participants be represented by a single recognised legal representative; and
- (b) approve a qualified lawyer for that purpose.

(3) Any approval given under paragraph (2)(b) must be agreed to by the core participants in question to be effective.

(4) But if no such agreement is reached within a reasonable period, the chairman may approve a qualified lawyer who, in the opinion of the chairman, has sufficient knowledge and experience to act in this capacity.

(5) If the conditions in paragraph (1) no longer apply, a core participant jointly represented under this rule may apply to the chairman, stating the change of circumstances relied upon, to be permitted separate representation.

7.—(1) A core participant, or other person to whom rule 5(1)(b) applies, may appoint other qualified lawyers to assist that person's recognised legal representative in the discharge of the legal representative's functions.

(2) Without prejudice to the generality of paragraph (1), in assisting a person's recognised legal representative those other qualified lawyers may—

- (a) attend inquiry hearings; and
- (b) act as that person's recognised legal representative if appropriate.

(3) Where one of the other qualified lawyers is acting as a recognised legal representative by virtue of paragraph (2)(b), references in these Rules to a recognised legal representative apply to that lawyer as they apply to a recognised legal representative unless the context otherwise requires.

Requests for evidence

8.—(1) The inquiry panel may send a written request to any person for a written statement of evidence.

(2) The inquiry panel must send a written request to any person that it wishes to produce any document or other thing.

(3) The inquiry panel may make a written request for further evidence, being either a written statement or oral evidence.

(4) Any request for a written statement must include a description of the matters or issues to be covered in the statement.

(5) Any written request sent or made under this rule must include a date or time by which the statement, document, other thing or further evidence must be provided.

Oral evidence

9.—(1) Subject to paragraphs (2) to (5), where a witness is giving oral evidence at an inquiry hearing, only—

- (a) the inquiry panel;
- (b) counsel to the inquiry;
- (c) if counsel has not been appointed, the solicitor to the inquiry; or
- (d) persons entitled to do so under paragraphs (2) to (4),

may examine that witness.

(2) Where a witness, including a core participant, is being examined at an inquiry hearing, the chairman may direct that the recognised legal representative of that witness may examine the witness.

(3) Where—

- (a) a witness has been examined at an inquiry hearing by counsel to the inquiry, or by the inquiry panel; and
- (b) that witness' evidence relates directly to the evidence of another witness,

the witness to whom the evidence relates or the recognised legal representative of that witness may apply to the chairman for permission to examine the witness who has given oral evidence.

(4) A core participant or the recognised legal representative of a core participant may apply to the chairman for permission to examine any witness giving oral evidence.

(5) When making an application under paragraph (3) or (4), the core participant or recognised legal representative must state—

- (a) the matters or issues in respect of which a witness is to be examined;
- (b) whether the examination will raise new matters or issues; or
- (c) where no new matters or issues are likely to be raised, reasons why the examination should be permitted.

(6) Where the chairman so directs, oral evidence may be given at an inquiry hearing by a live television link or other such arrangement by which the witness is able to be seen and heard in the proceedings and is able to see and hear the proceedings while at a place outside the room where the hearing is held.

Opening and closing statements

10.—(1) The recognised legal representative of a core participant may, unless the chairman directs otherwise,—

- (a) make an opening statement to the inquiry panel at the commencement of the first of any inquiry hearings; and
- (b) make a closing statement to the inquiry panel.

(2) A core participant who does not have a recognised legal representative may make the opening and closing statements under the conditions referred to in paragraph (1).

Disclosure of potentially restricted evidence

11.—(1) In this rule—

- (a) “potentially restricted evidence” means any evidence or document which—
 - (i) is in the possession of the inquiry panel, or any member of the inquiry panel; and
 - (ii) is the subject of a relevant application which has not been determined or withdrawn; and
- (b) “relevant application” means an application made by any person that evidence or documents—
 - (i) are to be specified in a restriction notice under section 19(2)(a) of the Act (restriction notice given by the Minister on disclosure or publication of evidence or documents);
 - (ii) are to be specified in a restriction order under section 19(2)(b) of the Act (restriction order made by the chairman on disclosure or publication of evidence or documents); or
 - (iii) are to be withheld on grounds of public interest immunity, and which entails the withholding of evidence or documents from the public.

(2) Subject to paragraph (3), potentially restricted evidence is subject to the same restrictions as it would have been subject to if the relevant application had been granted.

(3) Where the conditions in paragraph (4) are satisfied, the chairman may disclose the potentially restricted evidence to a person who would not otherwise be permitted to see it.

(4) The conditions are that—

- (a) the chairman considers that disclosure to an individual is necessary for the determination of the relevant application; and
- (b) the chairman has afforded an opportunity to make representations about whether disclosure to that individual should be permitted, to—
 - (i) the person who has provided or produced the potentially restricted evidence to the inquiry panel; or
 - (ii) any other person making the relevant application.

(5) Any person who is shown potentially restricted evidence under paragraph (3) owes an obligation of confidence to the person who provided or produced that evidence to the inquiry.

(6) A breach of the obligation referred to in paragraph (5) is actionable by the person to whom the obligation is owed.

Warning letters

12.—(1) The chairman may send a warning letter to any person where the chairman considers that—

- (a) the person might be, or has been, criticised during the proceedings at the inquiry;
- (b) criticism of the person may be inferred from evidence given during the proceedings at the inquiry; or
- (c) the person may be criticised in the report (and any interim report).

(2) The warning letter must—

- (a) state what the criticism or proposed criticism is;
- (b) contain a statement of any facts that the chairman considers may substantiate the criticism or proposed criticism;
- (c) refer to any evidence or documents which may support those facts;
- (d) invite the person to make a written statement if the person wishes; and
- (e) note that the information is subject to confidentiality restrictions.

(3) The chairman may send copies of any evidence or documents referred to with the warning letter, if the chairman considers it appropriate to do so.

(4) Where the warning letter is sent to a person by virtue of paragraph (1)(b)—

- (a) paragraph (2) does not apply; but
- (b) the letter must refer to the evidence or documents from which the chairman considers criticism could be inferred.

(5) Paragraphs (2) to (4) are subject to any restrictions on the disclosure of evidence, documents or information—

- (a) imposed under section 19 (restrictions on public access etc.) of the Act;
- (b) applying by virtue of section 23 of the Act (risk of damage to the economy); or
- (c) resulting from a determination of public interest immunity.

(6) The recipient of a warning letter may disclose it to the recipient's recognised legal representative.

(7) The inquiry panel must not include any significant or explicit criticism of a person in the report (and in any interim report) unless—

- (a) the chairman has sent that person a warning letter; and
- (b) the person has been given a reasonable opportunity to respond to the warning letter.

13.—(1) The contents of a warning letter are to be treated as subject to an obligation of confidence owed—

- (a) separately by each member of the inquiry team to the recipient;
- (b) by the recipient to the chairman; and
- (c) by the recipient's recognised legal representative to the chairman (where the recipient has disclosed the letter under rule 12(6)).

(2) The obligation of confidence may be waived in writing at any time by the chairman or, as the case may be, by the recipient.

(3) The inquiry panel's obligation of confidence arising under this rule ends when the inquiry report is signed in accordance with section 24(4) of the Act.

(4) All other obligations of confidence arising under this rule end when the inquiry report is published under section 25 of the Act.

(5) A breach of the obligation referred to in paragraph (1) is actionable by the person to whom the obligation is owed.

(6) In this rule “the recipient” means the person to whom a warning letter is sent under rule 12.

14. In determining the weight to be accorded to any evidence, the inquiry panel must take no account of whether or not a warning letter was (or was not) sent to any person.

Reports

15.—(1) Following delivery of the report (or any interim report) under section 24(1) of the Act, but at any time prior to publication under section 25 of the Act, the chairman must give a copy of the report (or interim report) which is to be published to—

- (a) any core participant; and
- (b) a core participant’s recognised legal representative, if any.

(2) Subject to paragraph (3), the contents of the report (or any interim report) are to be treated as subject to an obligation of confidence owed to the chairman by each person who has received a copy of the report by virtue of paragraph (1).

(3) Paragraph (2) applies only until the report (or interim report) has been published by the chairman.

(4) A breach of the obligation referred to in paragraph (2) is actionable by the chairman.

Records management

16.—(1) Before the setting-up date, or as soon as reasonably practicable after that date, the chairman must consult the Keeper of the Records of Scotland on the manner and format of creating, maintaining and transferring the record of the inquiry.

(2) During the course of the inquiry the chairman must seek to ensure that the record of the inquiry is comprehensive and well-ordered.

(3) At the end of the inquiry, the chairman must transfer the record of the inquiry to the Keeper of the Records of Scotland.

Awards

Application for an award under section 40(1) of the Act

17.—(1) An applicant may apply in writing to the chairman at any time for an award to be made under section 40(1) of the Act (award of compensation and expenses by chairman).

(2) Where the application relates to amounts to be incurred in respect of legal representation, it must state—

- (a) the nature and estimated duration of the legal representation for which the award is sought;
- (b) the proposed hourly rates of any legal representative providing that representation; and
- (c) any other expenses relating to legal representation.

Criteria for determination of applications

18.—(1) Subject to section 40(4) of the Act (conditions or qualifications notified by the Minister), the chairman must take into account the criteria set out in paragraph (2) when determining whether an award should be made.

(2) The criteria are—

- (a) the financial resources of the applicant; and
- (b) the public interest so far as relating to the making of an award.

Determination conditions for awards

19.—(1) Where the chairman has determined an award should be made, in the determination of the application the chairman—

- (a) must set conditions according to paragraphs (2) to (4); and
- (b) may set any other conditions the chairman considers appropriate.

(2) Where an award is for amounts to be incurred in respect of legal representation the conditions must include—

- (a) the nature and scope of the work to be funded;
- (b) the hourly rates to be paid;
- (c) any upper limit or limits on the sums or number of hours which will be paid;
- (d) the frequency with which bills must be submitted to the chairman; and
- (e) the form in which bills must be so submitted.

(3) Where an award is for amounts to be incurred by way of compensation for loss of time the conditions must include—

- (a) an upper limit or limits on the sums which will be paid;
- (b) the form in which bills must be submitted to the chairman; and
- (c) the supply of such documentary evidence as the chairman considers necessary.

(4) Where an award is for amounts to be incurred which are not already covered by paragraphs (2) and (3) the conditions must include—

- (a) an upper limit or limits on the sums which will be paid;
- (b) a requirement that the applicant provide evidence that the expenditure has been properly incurred; and
- (c) the form in which bills must be submitted to the chairman.

Notification or referral following determination

20.—(1) This rule applies where the chairman has determined that an award should be made.

(2) Where the application relates to amounts which are to be incurred, the chairman must—

- (a) send the determination to the applicant; and
- (b) where the applicant has a legal representative, that legal representative.

(3) Where the application relates to amounts which have been incurred, the chairman must refer the application to the solicitor to the inquiry for an initial assessment of the amount of the award under rule 21 as soon as practicable.

Assessment of award by the solicitor to the inquiry

21.—(1) The solicitor to the inquiry must make an initial assessment of the amount of the award within 21 days of the referral by the chairman.

(2) Where the solicitor to the inquiry assesses that the full amount applied for by the applicant should be paid, the initial assessment of the amount of the award is also the final assessment of the amount of the award.

(3) If the applicant disagrees with the initial assessment of the amount of the award, or a part of it, the applicant must notify the solicitor to the inquiry of this in writing as soon as reasonably practicable and, in any event, within 21 days of the date on which the initial assessment of the amount of the award is sent to the applicant in accordance with paragraph (5).

(4) Where the applicant has not responded within 21 days of the initial assessment of the amount of the award being sent to the applicant, the solicitor to the inquiry must make the final assessment of the amount of the award.

(5) An initial or final assessment of the amount of the award made by the solicitor to the inquiry must be in writing and sent—

- (a) to the applicant; and
- (b) where the applicant has a legal representative, that legal representative.

Matters to be taken into account for the initial assessment

22.—(1) When assessing an award for an amount by way of compensation for loss of time, the solicitor to the inquiry must have regard to—

- (a) actual sums lost by the applicant as a result of attending the inquiry; or
- (b) if no such sums can be identified, such other amount as the solicitor to the inquiry considers proportionate and reasonable.

(2) When assessing an award for an amount in respect of expenses incurred, the solicitor to the inquiry must have regard to all the circumstances and in particular—

- (a) whether the expenses have been proportionately and reasonably incurred;
- (b) whether the expenses are proportionate and reasonable in amount.

(3) The solicitor to the inquiry must exclude amounts from the initial assessment of the amount of the award in relation to which any condition set under rule 19 has not been complied with.

Procedure where initial assessment is not agreed to in relation to an award other than for legal representation

23.—(1) Where—

- (a) notification has been given by the applicant under rule 21(3); and
- (b) it relates to an application for an award for amounts which have been incurred otherwise than in respect of legal representation,

the solicitor to the inquiry must reconsider the initial assessment of the amount of the award.

(2) Having reconsidered the initial assessment of the amount of the award under paragraph (1) the solicitor to the inquiry must issue the final assessment of the amount of the award to the applicant within a reasonable time.

Dispute procedure in respect of initial assessment in relation to an award for legal representation

24.—(1) Where—

- (a) notification has been given by the applicant under rule 21(3); and
- (b) it relates to an application for an award for amounts which have been incurred in respect of legal representation,

the solicitor to the inquiry must send the applicant a response in accordance with paragraph (2).

(2) That response must—

- (a) be in writing; and
- (b) set out details of the points of dispute within 21 days of receipt of the notification.

(3) Those details must—

- (a) identify each item to which the solicitor to the inquiry objects;
- (b) state the nature of the objection for each item; and
- (c) propose an alternative amount to be allowed for each item in respect of which a reduction is sought.

(4) The applicant must provide a reply in accordance with paragraph (5).

(5) That reply must be—

- (a) in writing; and
- (b) sent to the solicitor to the inquiry within 21 days of the response having been sent to the applicant.

(6) The solicitor to the inquiry and the applicant may agree to extend the deadlines set out in paragraphs (2)(b) and (5)(b).

Review by the Auditor of the Court of Session of the amount of an award for legal representation

25.—(1) Where the applicant has replied under rule 24(5) and there remains a dispute, the chairman must either—

- (a) refer the initial assessment to the Auditor of the Court of Session together with all relevant evidence and documentation, including the application and any correspondence between the solicitor to the inquiry and the applicant given under rules 21 and 24; or
- (b) require the solicitor to the inquiry to issue a final assessment of the amount of the award.

(2) Where the initial assessment of the amount of an award for legal representation has been referred under paragraph (1)(a), the Auditor of the Court of Session must hold a review hearing within a reasonable time.

(3) The Auditor of the Court of Session must notify the solicitor to the inquiry and the applicant of the date and location of the review hearing, in writing, as soon as practicable and in any event not later than 14 days before the date of the hearing.

(4) A person other than—

- (a) the applicant;
- (b) the solicitor to the inquiry; and
- (c) the applicant’s qualified lawyers,

may be heard at the review hearing only if the Auditor of the Court of Session gives permission for that person to be heard.

26.—(1) The Auditor of the Court of Session must send—

- (a) the applicant; and
- (b) the chairman,

the Auditor of the Court of Session’s assessment of the amount of the award as soon as reasonably practicable following the review hearing.

(2) The Auditor of the Court of Session’s assessment under paragraph (1) is the final assessment of the amount of the award.

Agreement prior to a review hearing

27.—(1) This rule applies where, after the date on which the chairman makes a referral under rule 25(1) but before the date of the review hearing, the solicitor to the inquiry and the applicant agree on the amount of the initial assessment.

(2) Such an agreed amount is the final assessment of the amount of the award.

(3) The solicitor to the inquiry must issue the final assessment of the amount of the award as soon as practicable following an agreement being reached under paragraph (2).

Making an award

28.—(1) The chairman must make an award and arrange for payment of the final assessment of the amount of the award.

(2) Where the award is not to be reviewed under rule 25 payment must be made within 28 days of the final assessment of the amount of the award being sent to the applicant.

(3) Where the amount of the award has been reviewed under rule 25 payment must be made within 28 days of the final assessment of the amount of the award being sent under rule 26.

St Andrew's House,
Edinburgh
13th December 2007

KENNY MACASKILL
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules, made under section 41 of the Inquiries Act 2005 (“the Act”), deal with matters of evidence and procedure in relation to inquiries, the return or keeping, after the end of the inquiry, of documents given to or created by the inquiry and awards made by the chairman to the inquiry under section 40 of the Act (expenses of witnesses).

Rule 3 sets out the rules for giving and sending documents.

Rule 4 provides for the designation of core participants to the inquiry by the chairman.

Rules 5 and 6 deal with the designation of a lawyer appointed by a core participant or witness as a recognised legal representative. Rule 6 sets out the circumstances in which one recognised legal representative should be appointed to represent two or more core participants. Rule 7 provides for a core participant or other witness to appoint a legal team to assist that person’s legal representative.

Rules 8 and 9 are concerned with the collection of evidence by the inquiry panel and the conduct of oral hearings which are held.

Rule 10 permits the recognised legal representative of a core participant, or, where there is no recognised legal representative, the core participant himself or herself, to make opening and closing statements.

Rule 11 provides that where there is an application that evidence should be withheld from the public domain (by virtue of a restriction order, restriction notice or on grounds of public interest immunity), that evidence must be subject to the same restrictions as it would be subject to if the order sought had been granted. The chairman may, however, show the evidence to another individual where the chairman considers that disclosure is necessary for the determination of the application.

Rules 12 and 13 deal with the sending of warning letters to those who may be, or have been, criticised during the inquiry proceedings or in the inquiry report, or any interim report and rule 14 makes it clear that the inquiry panel must take no account of whether or not a warning letter was (or was not) sent to a person when determining the weight to be given to particular evidence.

Rule 15 provides for the delivery of copies of the inquiry report or interim inquiry report which is to be published to core participants after the report or interim report has been delivered to the Scottish Ministers.

Rule 16 sets out the chairman’s records management obligations during the inquiry and provides for the transfer of custody of the inquiry record at the end of the inquiry to the Keeper of the Records of Scotland.

Rules 17 to 28 set out the rules regarding the making and assessment of awards to be made under section 40(1) of the Act.

Rule 17 provides for an application to be in writing and sets out the matters which the application must include where it relates to amounts to be incurred in respect of legal representation. Rule 18 requires the chairman to take into account the financial resources of the applicant and the public interest relating to the making of an award when determining whether an award should be made.

Rule 19 sets out the determination conditions for awards for amounts to be incurred in respect of legal representation, for compensation for loss of time and for other expenses not falling into either of those categories.

Rule 20 provides for notification after the chairman has determined that an award should be made where the application relates to amounts which are to be incurred. Where the application relates to amounts which have been incurred the chairman is required to refer the application to the solicitor to the inquiry for an assessment.

Rule 21 makes provision for the solicitor to the inquiry to make an initial assessment of the amount of the award. It also sets out a notification procedure for the applicant to notify the solicitor to the inquiry where the applicant disagrees with the initial assessment of the amount of the award.

Rule 22 contains the matters which the solicitor to the inquiry must take into account when making an initial assessment.

Rule 23 requires the solicitor to the inquiry to reconsider the initial assessment of the amount of the award where the applicant has notified disagreement with the initial assessment and the application does not relate to amounts to be awarded in relation to legal representation.

Rule 24 sets out the details of the dispute procedure to be followed by the applicant and the solicitor to the inquiry where the applicant has notified the solicitor to the inquiry that the applicant disagrees with the initial assessment of the amount of the award relating to legal representation.

Rule 25 makes provision for the chairman to either make a reference to the Auditor of the Court of Session or to require the solicitor to the inquiry to issue a final assessment of the amount of the award where there remains a dispute about the amount of an award for legal representation. Where a referral is made a review hearing must be set at which relevant persons will be heard.

Rule 26 provides for the Auditor of the Court of Session to intimate his or her assessment of the amount of the award to the applicant and the chairman.

Rule 27 sets out that where a referral has been made to the Auditor of the Court of Session but before the review hearing the solicitor to the inquiry and the applicant for the award agree on the amount of the initial assessment then the solicitor to the inquiry is to issue the final assessment.

Rule 28 makes provision for the chairman to make an award and arrange for payment of the final assessment within particular timescales.

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