Legal Aid (Scotland) Act 1986

1986 CHAPTER 47

[F1 PART IVA

CRIMINAL LEGAL ASSISTANCE]

F1 Removal of name from Register

F1 25D Removal of name from Register following failure to comply with code.

(1) Where it appears to the Board (whether or not following a complaint made to it) that a registered firm or solicitor may not be [F2, or may not have been,] complying with the code, it shall investigate the matter in such manner as it thinks fit, and shall give the firm or solicitor concerned an opportunity to make representations.

(2) For the purpose of carrying out its duty under subsection (1) above the Board may use the powers conferred on it by sections 35A and 35B of this Act.

(3) Following an investigation under subsection (1) above, the Board may give the firm or solicitor concerned an opportunity, within such time as it may specify, to remedy any defect in their or his compliance with the code.

(4) Where, after carrying out the procedures mentioned in subsection (1) above and, where a time limit has been set under subsection (3) above, after the expiry of that time limit, the Board is satisfied that—

(a) the firm are not complying with the code, it shall remove the names of the firm and, subject to subsection (5) below, of any registered solicitors connected with the firm from the Register;

(b) the solicitor is not complying with the code, it shall remove his name from the Register.

[F3(4A) Where, after carrying out the procedures mentioned in subsection (1) above and, where a time limit has been set under subsection (3) above, after the expiry of that time limit, the Board is satisfied that, regardless of whether or not there is current compliance with the code—

Changes to legislation: *Legal Aid (Scotland) Act 1986, Section 25D is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(a) the firm have not complied with the code in a material regard, it may remove the names of the firm and, subject to subsection (5) below, of any registered solicitors connected with the firm from the Register;

(b) the solicitor has not complied with the code in a material regard, it may remove his name from the Register.**]**

(5) Where a registered solicitor mentioned in subsection (4)(a) **[**[F4]or (4A)(a)**]** above is also connected with another registered firm, the Board shall not remove his name from the Register, but shall alter the entry against his name in the Register so as to remove therefrom the name of the firm whose name has been removed from the Register.

(6) Where the Board removes the name of a solicitor from the Register the solicitor shall—

(a) **[**[F5]within such period of time as the Board shall direct (in the case concerned) and**]** in accordance with arrangements approved by the Board, [F6]. . . and without waiting for the resolution of any appeal, transfer—

(i) any work currently being undertaken by him for any client by way of criminal legal assistance; and

(ii) notwithstanding any lien to which he might otherwise be entitled, any documents connected with any such work,

to a registered solicitor; and

(b) in accordance with section 25A(3) of this Act, stop providing criminal legal assistance.

(7) Where the Board removes the name of a firm or solicitor from the Register it shall forthwith intimate that removal to the firm or solicitor concerned, and shall as soon as practicable thereafter send them or him, by recorded delivery, a written note of its reasons for its decision.

(8) A firm or solicitor aggrieved by a decision of the Board under subsection (4) **[**[F7]or (4A)**]** above may, within 21 days of the receipt of the notification under subsection (7) above, appeal to the Court of Session against that decision.

(9) An appeal under subsection (8) above may be on questions of both fact and law and the court, after hearing such evidence and representations as it considers appropriate, may make such order as it thinks fit; but the making of such an appeal shall not have the effect of restoring the firm's or solicitor's name to the Register.

Textual Amendments

F1 Pt. IVA (ss. 25A-25F) inserted (1.10.1997 for specified purposes, 1.4.1998 for further specified purposes and otherwise 1.10.1998) by 1997 c. 48, **s.49**; S.I. 1997/2323, **art. 6 Sch.3**

F2 Words in s. 25D(1) inserted (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp. 5), **ss. 66(2)**, 82(2) (with s. 77); S.S.I. 2008/311, **art. 2(d)**

F3 S. 25D(4A) inserted (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp. 5), **ss. 66(3)**, 82(2) (with s. 77); S.S.I. 2008/311, **art. 2(d)**

F4 Words in s. 25D(5) inserted (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp. 5), **ss. 66(4)**, 82(2) (with s. 77); S.S.I. 2008/311, **art. 2(d)**

F5 Words in s. 25D(6)(a) inserted (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), ss. 81, 82(2), **Sch. 5 para. 2(4)(a)** (with s. 77); S.S.I. 2008/311, **art. 2(i)**

F6 Word in s. 25D(6)(a) repealed (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), ss. 81, 82(2), **Sch. 5 para. 2(4)(b)** (with s. 77); S.S.I. 2008/311, **art. 2(i)**

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F7 Words in s. 25D(8) inserted (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp. 5), **ss. 66(5)**, 82(2) (with s. 77); S.S.I. 2008/311, **art. 2(d)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(2)(aba)(abb) inserted by 2007 asp 5 s. 75(2)
- s. 4(2)(aba) word substituted by S.S.I. 2011/235 art. 5(2)(a) (This amendment comes into force immediately after the commencement of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), s. 75, see art. 2(2). That provision is still prospective.)
- s. 4(2)(abb) word substituted by S.S.I. 2011/235 art. 5(2)(b) (This amendment comes into force immediately after the commencement of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), s. 75, see art. 2(2). That provision is still prospective.)
- s. 4(2)(ba) inserted by 2007 asp 5 s. 70(1)
- s. 4(3)(ca)(cb) inserted by 2007 asp 5 s. 75(3)
- s. 9A9B inserted by 2013 asp 3 s. 18(2)
- s. 10(1A)(1B) inserted by 2007 asp 5 s. 69(3)
- s. 12C and cross-heading inserted by 2007 asp 5 s. 70(2)
- s. 17(2C)-(2I) inserted by 2007 asp 5 s. 75(4)
- s. 17(2DA)(2DB) s. 17(2C)(2D) renumbered as s. 17(2DA)(2DB) by S.S.I. 2011/235 art. 5(3) (This amendment comes into force immediately after the commencement of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), s. 75, see art. 2(2). That provision is still prospective.)
- s. 25AA(5)-(9) inserted by 2013 asp 3 s. 21
- s. 25AC25AD inserted by 2013 asp 3 s. 20