



# Legal Aid (Scotland) Act 1986

## 1986 CHAPTER 47

### PART VI

#### MISCELLANEOUS

##### *<sup>F1</sup> Contracts for the provision of criminal legal assistance*

##### **<sup>F1</sup> 33A Contracts for the provision of criminal legal assistance.**

- (1) The Secretary of State may by regulations made under this section empower the Board to enter into contracts with registered firms for the provision by registered solicitors connected with those firms of criminal legal assistance.
- (2) Regulations under this section may prescribe—
  - (a) the procedures to be followed by the Board in awarding any such contract; and
  - (b) subject to subsection (3) below, any terms and conditions which are to be included in any such contract.
- (3) Regulations under this section shall provide that any contract entered into by virtue of this section shall include a provision that, in the event of the termination of the contract, or a breach of it by the registered firm concerned, the Board may—
  - (a) withhold payments under the contract; and
  - (b) require the firm to secure the transfer of—
    - (i) any work currently being undertaken by any solicitor connected with them for any client by way of criminal legal assistance; and
    - (ii) notwithstanding any lien to which any such solicitor might otherwise be entitled, any documents connected with any such work,to a registered solicitor.
- (4) Regulations under this section may provide that where the Board has by virtue of this section entered into contracts with any registered firms for the provision of criminal legal assistance in any area, then, unless it seems to the Board to be inappropriate in

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**Changes to legislation:** *Legal Aid (Scotland) Act 1986, Section 33A is up to date with all changes known to be in force on or before 05 February 2023. 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*

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a particular case, any person seeking such assistance in that area shall be required to instruct a registered solicitor connected with one of those firms.

- (5) Any money due to a firm under a contract made by virtue of this section shall be paid to the firm—
- (a) firstly, out of any amount payable by the client in accordance with section 11(2) [<sup>F2</sup>, 11A(2) or 25AC(3)] of this Act;
  - (b) secondly, in priority to all other debts, out of any expenses which by virtue of an order of a criminal court are payable to that client by any other person in respect of the matter in connection with which the criminal legal assistance was given; and
  - (c) thirdly, by the Board out of the Fund.

[ In subsection (5), the reference to an amount payable by the client does not include <sup>F3</sup>(5A) an amount which it is for the Board to collect (whether under section 11A(3), section 25AC(4)(a), or any regulations made under section 33ZA(1)).]

- (6) For the purposes of sections 32 and 33 of this Act, the money paid to a firm, as provided in subsection (5) above, in respect of a contract made by virtue of this section shall be taken to be a payment made in accordance with this Act, and no solicitor connected with such a firm shall be entitled to any other payment out of the Fund in respect of any work done by him by virtue of such a contract.]

#### Textual Amendments

- F1** S. 33A and crossheading inserted (1.10.1997) by 1997 c. 48, s.52; S.I. 1997/2323, art. 6, Sch.3
- F2** Words in s. 33A(5)(a) inserted (11.10.2013) by Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3), ss. 23(8)(a), 25(2); S.S.I. 2013/262, art. 2
- F3** S. 33A(5A) inserted (11.10.2013) by Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3), ss. 23(8)(b), 25(2); S.S.I. 2013/262, art. 2

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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](#)