



Scottish Civil Justice Council and Criminal Legal Assistance Act 2013

2013 asp 3

PART 2

CRIMINAL LEGAL ASSISTANCE

Contributions for criminal legal aid

20 Contributions for criminal legal aid

After section 25AB of the 1986 Act insert—

“25AC Legal aid: contributions

- (1) A person (A) is not to be required to pay any sums in respect of criminal legal aid received in pursuance of this Part except in accordance with subsection (3) or section 25AA(5).
- (2) Subsection (3) applies where—
 - (a) the legal aid is not being provided in any of the circumstances described in section 22(1) or under section 23(1), and
 - (b) A—
 - (i) has disposable income of, or exceeding, £82 a week and is not (directly or indirectly) in receipt of any of the benefits mentioned in section 11(2)(b), or
 - (ii) has disposable capital of, or exceeding, £750.
- (3) A is liable to pay a contribution in respect of the criminal legal aid provided of up to, but not in aggregate exceeding, such amount as may be prescribed by regulations made under section 33ZA(1).
- (4) Except where regulations made under section 33ZA(1) otherwise provide—
 - (a) in a case where the criminal legal aid is being provided—
 - (i) in relation to solemn proceedings, proceedings relating to an appeal or proceedings relating to the Supreme Court,

Status: This is the original version (as it was originally enacted).

- (ii) by a solicitor employed by the Board by virtue of sections 26 and 27 or, as the case may be, section 28A, or
 - (iii) by counsel instructed by such a solicitor,
- it is for the Board to collect any contribution payable by A under subsection (3), and
- (b) in any other case, it is for the solicitor to collect any contribution payable by A under subsection (3).
- (5) A contribution collected by the solicitor is to be treated as payment of a fee or outlay properly chargeable (in accordance with section 33).
- (6) For the purposes of subsections (4)(b) and (5), “the solicitor” means the solicitor by whom any criminal legal aid is being provided or, where it is provided by counsel, the solicitor on whose instruction counsel provides it.

25AD Payment of fees or outlays otherwise than through contributions

- (1) Except in so far as regulations made by the Scottish Ministers under this section or section 33ZA(1) otherwise provide, any fees and outlays payable to the solicitor in respect of criminal legal aid are to be paid as follows—
- (a) *first*, out of any contribution payable by the person receiving the criminal legal aid in accordance with section 25AC(3),
 - (b) *second*, in priority to all other debts, out of any expenses which by virtue of an order of a criminal court are payable to that person by any other person in respect of the matter in connection with which the criminal legal aid was given, and
 - (c) *third*, by the Board out of the Fund, following receipt by it of a claim submitted by the solicitor.
- (2) In subsection (1)—
- (a) the reference to fees and outlays is a reference to any fees and outlays properly chargeable (in accordance with section 33) in respect of criminal legal aid given to a person under this Part (but does not include the salary payable to a solicitor employed by the Board under sections 26 and 27 or section 28A),
 - (b) the reference to a contribution payable by the person receiving criminal legal aid does not include a contribution which it is for the Board to collect (whether under section 25AC(4)(a) or any regulations made under section 33ZA(1)).
- (3) For the purposes of this section, “the solicitor” means the solicitor by whom any criminal legal aid is being provided or, where it is provided by counsel, the solicitor on whose instruction counsel provides it.”.