



Scottish Civil Justice Council and Criminal Legal Assistance Act 2013

2013 asp 3

PART 2

CRIMINAL LEGAL ASSISTANCE

General

22 Regulations about contributions for criminal legal assistance

After section 33 of the 1986 Act insert—

“33ZA Regulations about contributions for criminal legal assistance

- (1) The Scottish Ministers may by regulations make provision in connection with the amount, determination and collection of any contribution payable under section 11 (in so far as relating to criminal matters) or section 11A, 25AA or 25AC.
- (2) Regulations made under subsection (1) may, in particular—
 - (a) make provision permitting a lower contribution to be payable where otherwise the person liable to pay the contribution, or the dependants of such person, would suffer undue hardship,
 - (b) make provision for determining appropriate contributions where the person is in receipt of criminal legal assistance in respect of two or more distinct proceedings,
 - (c) except in relation to section 25AA, specify whether it is for the Board or the solicitor providing the assistance to determine the amount of, or collect, a contribution,
 - (d) specify how a person’s contributions are to be transferred or accounted for in relation to proceedings which are—
 - (i) instituted by way of summary complaint but which are subsequently dealt with under solemn procedure, or

Status: This is the original version (as it was originally enacted).

- (ii) instituted by way of indictment but which are subsequently dealt under summary procedure,
 - (e) make provision about the payment of contributions by instalments,
 - (f) make provision requiring the Board to make arrangements to provide to solicitors a service of collecting contributions payable to solicitors on their behalf.
- (3) Regulations made under subsection (1) containing provision made in pursuance of subsection (2)(f) may include provision about the operation of the service, including provision—
- (a) regulating the arrangements for remitting to a solicitor the amount of a contribution (or an instalment of a contribution) following its collection,
 - (b) enabling or requiring, or, where enabled or required, regulating, the imposition by the Board of charges for the recovery of any reasonable costs the Board incurs in connection with the provision of the service to a solicitor.
- (4) Regulations made under subsection (1) may provide for different provision in relation to different cases or classes of case.
- (5) In 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.”.

23 Consequential modifications

- (1) The 1986 Act is amended as follows.
- (2) In section 4(3)(aa) (Scottish Legal Aid Fund), after “11” insert “, 11A, 25AA or 25AC”.
- (3) In section 8 (availability of advice & assistance), after “8A(1)” insert “or 9(1)”.
- (4) In section 8A(1) (criminal advice and assistance: automatic availability in certain circumstances)—
- (a) the words “the financial limits in section 8” become paragraph (a),
 - (b) after that paragraph insert “; or—
 - (b) the criteria mentioned in section 9A(2)”.
- (5) In section 9(2) (regulations may apply Part 2 to representation), in paragraph (de), after “11(2)” insert or “11A”.
- (6) In section 11 (clients’ contributions)—
- (a) in subsection (1)—
 - (i) after “(2)” insert “or”,
 - (ii) the words “or (3)” are repealed,
 - (b) in subsection (2A)—
 - (i) for the words from “criminal” where it first occurs to “assistance” where it third occurs substitute “advice and assistance (other than assistance by way of representation to which section 9A applies)”,
 - (ii) after “27” insert “or section 28A”,
 - (c) in subsection (3A), after “27” insert “or section 28A”, and

- (d) subsections (3) and (4) are repealed.
- (7) In section 12 (payment of fees and outlays otherwise than through clients' contributions)—
 - (a) in subsection (3)(a), after “11(2)” insert “or, as the case may be, section 11A(2)”, and
 - (b) after subsection (3), insert—
 - “(4) In subsection (3), the reference to an amount payable by the client does not include an amount which it is for the Board to collect (whether under section 11A(3) or any regulations made under section 33ZA(1)).”.
- (8) In section 33A (contracts for the provision of criminal legal assistance)—
 - (a) in subsection (5)(a), after “11(2)” insert “, 11A(2) or 25AC(3)”, and
 - (b) after subsection (5), insert—
 - “(5A) In subsection (5), the reference to an amount payable by the client does not include 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)).”.
- (9) In section 36(2) (regulations)—
 - (a) in paragraph (b)—
 - (i) after “11(2),” insert “11A(1),”,
 - (ii) for “and 17(2)” substitute “, 17(2) and 25AC(2)”,
 - (iii) for “amount specified in section 10(2)” substitute “amounts specified in sections 10(2), 11A(1) and 25AC(2) and, in so far as relating to criminal matters, sections 8 and 11(2)”.
- (10) In section 37(2) (parliamentary procedure) after “24(4)” insert “, 33ZA(1)”.