

*Status: This version of this provision is prospective.*

*Changes to legislation: Scottish Civil Justice Council and Criminal Legal Assistance Act 2013, Section 20 is up to date with all changes known to be in force on or before 25 May 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*



# Scottish Civil Justice Council and Criminal Legal Assistance Act 2013

## 2013 asp 3

### PART 2

#### CRIMINAL LEGAL ASSISTANCE

##### *Contributions for criminal legal aid*

PROSPECTIVE

#### 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—

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- (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,
    - (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.”.

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**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 20 coming into force by [S.S.I. 2013/262 art. 2](#) (Amendment not applied to [legislation.gov.uk](#). Art. 2 amended (10.10.2013) by S.S.I. 2013/271, art. 2)
- specified provisions amendment to earlier commencing SSI 2013/271 art. 2 by [S.S.I. 2013/271 art. 2](#)

**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. 2(1)(c)(ii) inserted by [2014 asp 10 sch. 9 para. 13\(2\)\(b\)\(ii\)](#)
- s. 2(1)(ba) inserted by [2014 asp 10 sch. 9 para. 13\(2\)\(a\)](#)
- s. 2(3)(ca) inserted by [2014 asp 10 sch. 9 para. 13\(3\)](#)
- s. 2(7) inserted by [2014 asp 10 sch. 9 para. 13\(4\)](#)
- s. 6(1)(aa) inserted by [2014 asp 10 sch. 9 para. 13\(6\)\(b\)](#)
- s. 6(1)(ea) inserted by [2014 asp 10 sch. 9 para. 13\(6\)\(c\)](#)
- s. 8(3A) inserted by [2014 asp 10 sch. 9 para. 13\(7\)\(b\)](#)
- s. 13A and cross-heading inserted by [2014 asp 10 sch. 9 para. 13\(9\)](#)
- s. 16(1) s. 16 renumbered as s. 16(1) by [2014 asp 10 sch. 9 para. 13\(10\)\(a\)](#)
- s. 16(1) words inserted by [2014 asp 10 sch. 9 para. 13\(10\)\(b\)](#)
- s. 16(2) inserted by [2014 asp 10 sch. 9 para. 13\(10\)\(c\)](#)