

CORONAVIRUS (SCOTLAND) ACT 2020

EXPLANATORY NOTES

DETAIL ABOUT PROVISIONS

Schedule 4 – Justice

Part 9 - Legal aid

Assessment of claims for interim payment of fees and outlays

183. Paragraph 21 of schedule 4 temporarily inserts provisions into section 33 of the Legal Aid (Scotland) Act 1986 which modify the level of scrutiny the Scottish Legal Aid Board must apply in their assessment of claims for interim fees or outlays. The effect of these new provisions is that the Board need not consider supporting evidence in order to be satisfied that the fees and outlays claimed for have been properly incurred; where a claimant for interim payment confirms that the fees or outlays claimed have been properly incurred, the Board will accept this. These provisions apply to all aspects of legal aid.

Recovery of overpayment of interim fees or outlays paid to firms

184. Paragraph 22 provides the Scottish Legal Aid Board with additional powers to recover overpayments which follow from the making of an interim payment. Where an interim payment has been paid to a firm on the instruction of the solicitor making the claim, and on assessment of a final account the Scottish Legal Aid Board determines that an overpayment has been made, the firm to whom the payment was made will now also be liable, along with the solicitor, to repay any excess sum. If payment remains due, deductions can be made from future payments due from the Scottish Legal Aid Fund to any solicitor of the firm.

Payment of interim fees for civil legal aid to counsel

185. Paragraph 23 removes the conditions that must be satisfied before counsel can make a claim for interim payment.